

1 VIRGINIA:

2 IN THE COUNTY OF WASHINGTON

3 VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY

4 VIRGINIA GAS AND OIL BOARD

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8
9 MARCH 19, 2001

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12 APPEARANCES:

13 DENNIS GARBIS, PUBLIC MEMBER

14 MASON BRENT, REPRESENTATIVE OF THE GAS & OIL INDUSTRY

15 KENNETH MITCHELL, CITIZEN MEMBER

16 BENNY WAMPLER, CHAIRMAN

17 MAX LEWIS, PUBLIC MEMBER

18 CLYDE KING, PUBLIC MEMBER

19 SANDRA RIGGS, ASSISTANT ATTORNEY GENERAL

20 BOB WILSON, DIRECTOR OF THE DIVISION OF GAS & OIL AND

21 PRINCIPAL EXECUTIVE TO THE STAFF OF THE BOARD

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1 BENNY WAMPLER: We'll go ahead and call the meeting
2 to order if I can get everyone's attention. Good morning.
3 My name is Benny Wampler. I'm Deputy Director for the
4 Virginia Department of Mines, Minerals and Energy and
5 Chairman of the Gas and Oil Board; and I'll ask the Members
6 to introduce themselves starting with Mr. Garbis, please.

7 DENNIS GARBIS: My name is Dennis Garbis. I'm from
8 Fairfax, a public member.

9 MASON BRENT: My name is Mason Brent. I represent
10 the Gas and Oil Industry. I'm from Richmond.

11 KENNETH MITCHELL: My name is Kenneth Mitchell. I'm
12 from Stafford County. I am a citizen member.

13 SANDRA RIGGS: I'm Sandra Riggs. I'm with the
14 Office of the Attorney General, and I'm here to advise the
15 Board.

16 MAX LEWIS: My name's Max Lewis. I'm from Buchanan
17 County. I'm a public member.

18 CLYDE KING: My name is Clyde King. I'm from
19 Washington County. I'm a public member.

20 BOB WILSON: I'm Bob Wilson. I'm the Director of
21 the Division of Gas and Oil, and Principal Executive to the
22 Staff of the Board.

23 BENNY WAMPLER: The first item on today's agenda,

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1 the Board will consider a recommendation by the Division of
2 Gas and Oil Director that the Board impose civil charges
3 against Evan Energy Company, L.C., pursuant to the Civil
4 Charge Procedural Rule adopted by the Board. This is docket
5 number VGOB-01/03/20-0881; and we'd ask the parties that wish
6 to address the Board in this matter to come forward at this
7 time.

8 BRINT CAMP: Yes, I'm Brint Camp. I'm chief
9 operating officer for Evan Energy.

10 BOB DAHLIN: I'm Bob Dahlin. I'm employed by Evan,
11 also.

12 BOB WILSON: I'm Bob Wilson, appearing as Director
13 of the Division of Gas and Oil.

14 MARK DEERING: Mark Deering, Division of Gas and Oil
15 Inspector.

16 GARY EIDE: Gary Eide, Division of Gas and Oil
17 Inspector.

18 BOB WILSON: Mr. Chairman, the Division of Gas and
19 Oil is recommending the assessment of Civil charges totaling
20 \$5,540 against Evan Energy subsequent to the issuance of two
21 notices of violations on January the 19th of 2001. In
22 accordance with the Civil Charge Procedural Rule adopted by
23 the Board on the docket VGOB-92-05/29-0226, which was
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1 executed on June the 11th, 1992, the decision to seek civil
2 charges was based on the following factors from Section II of
3 that ruling:

4 The violations resulted in, or could reasonably
5 have been expected to result in, significant environmental
6 harm. The operation was not properly permitted. The
7 operator had a recent history of similar violations at the
8 site subject to the civil charge or at other sites.

9 Notices of violations which led to these
10 recommendations are number 878 for inadequate erosion and
11 sediment control issued against Evans Pipeline Operation
12 06AMV, which is DOG permit number 4801; and NOV, NOV is
13 shorthand for notice of violation, otherwise we'll be
14 repeating this all day, 876 for construction utilization of
15 an unpermitted access road issued against the same permit
16 number 4801. While these recommendations are triggered by
17 these violations that I just referred to, they're also based
18 strongly on the operator's recent history of similar
19 violations. We will try to demonstrate to you today that
20 Evan Energy had received continuous warnings, NOVs and
21 closure orders over the few years of their existence and
22 these enforcement actions seem to bring no changes in their
23 method of operation.

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1 I'd like to state at the beginning that the
2 Division of Gas and Oil has built into its regulation
3 considerable discretion as to how we apply enforcement in the
4 field. The regulations states, "A compliance may be achieved
5 by obtaining voluntary compliance through conference
6 (spelling) warning and other means prior to issuing any
7 enforcement notice or order." Evan Energy began operations
8 in our state as a brand new company and when any operator
9 starts up here, we make special efforts to try to work with
10 them to get them use to our regulations and regulatory
11 requirements. We try to spend lots of times with them in the
12 field before and after permits are issued in order to insure
13 that they are fully aware of our regulatory expectations. We
14 try to give warnings, allowing time for the problems to be
15 corrected when we find problems on a permit. Evan Energy
16 received benefit of an extended learning period during which
17 they repeatedly received warnings to which they did not
18 respond; violations, which they failed to abate in the
19 required period of time; and repeated closure orders for
20 conducting operations off permitted area.

21 At the time NOVs 876 and 878 were issued, Evan had
22 a total of approximately 45 permits in Virginia, many of
23 which were inactive and are inactive. In approximately three
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1 years, the company has been informed of problems on
2 approximately 61 occasions and many of these were...they were
3 being informed of multiple problems. They received 46
4 notices of violations and six closure orders. To put that in
5 some perspective, the Division of Gas and Oil routinely will
6 issue about ten NOV's per month. Somewhere between a 100 and
7 a 150 per year on...it's over 4,000 active permits.

8 At this time, I want to ask the inspectors who have
9 been assigned to Evan's area to briefly provide some details
10 of their experience with the company. We'll begin with Gary
11 Eide, who was the inspector in Evan's area when they
12 commenced operation. Gary has appeared before the Board
13 before, but I'd like to ask him to very briefly give us a
14 brief summary of his training and qualification experience.

15 BENNY WAMPLER: If you...before he does, if you will
16 go ahead swear both of them in, please.

17 (WITNESSES STAND BEFORE THE BOARD AND ARE DULY
18 SWORN.)

19 GARY EIDE: My name is Gary Eide. I work...I'm an
20 inspector for the Division of Gas and Oil. I've been an
21 inspector going on 11 years this November. Before working
22 with the Division of Gas and Oil, I worked for the Division
23 of Mine and Land Reclamation starting in 1978. I worked for
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1 DMLR for 12 years as an inspector, as an area supervisor and
2 then the operator's assistance program.

3 Beginning in January of 1998, I began inspecting
4 the area...the pipeline and gas sites in Lee County. During
5 this time, I inspected Evan Energy operations. Actually,
6 Evan Energy began their operations in about August of '98.
7 They had five pipeline operations that they started at that
8 time, and as a result of these inspections on the pipeline
9 operations, there was...there was 30 NOVs issued. Let me
10 back up, they weren't all issued on the pipeline operation.
11 Later on this past year, from July to September of 2000, they
12 constructed and drilled three well sites. So, there was 30
13 NOVs issued altogether on these operations. Out of these 30
14 NOVs, 11 were for sediment control, four NOVs were issued for
15 being off the permit and there was three closure orders
16 issued for being off the permit.

17 As Bob said earlier, we do try to work with the
18 operator, especially a new operator who comes to Virginia.
19 As part of this effort, before these pipeline operations were
20 started or even permitted, I walk the pipeline routes with a
21 company representative or with one of their engineering
22 representatives. I did that on the pipeline operation, and
23 out of the three well sites, two of the well sites I worked
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1 with company...company people. So, as a result, like I said
2 earlier, there was a total of 30 NOVs, but 11 of them for
3 sediment control, four NOVs for being off the permit and
4 three closure orders for being off the permit.

5 BENNY WAMPLER: Any questions of this witness from
6 members of the Board at this time? Do you want to hear them
7 both and then see?

8 (No audible response.)

9 BENNY WAMPLER: Okay, go ahead Mark.

10 BOB WILSON: Yeah, Mark, could you...Mark hasn't
11 appeared before the Board before. Would you give us a little
12 brief history of your qualifications, please, sir.

13 MARK DEERING: My name is Mark Deering. I'm a gas
14 and oil inspector. I have a Bachelor of Science in geology
15 from the University of Kentucky. I've worked in the gas and
16 oil industry for about ten years as a gas and oil geologist,
17 directly involved in the operation and exploration in
18 development of gas and oil fields throughout Eastern Kentucky
19 and Southwest Virginia; and I've been the gas and oil
20 inspector for the last eight years.

21 I began inspecting the Evan Energy operations on
22 October 1st of 2000. I took over for Gary. Between October
23 1st and 1/19/2001, which was the date of the...of the

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1 violation that we're...for the recommendation of civil
2 charges. I wrote five...five inspection reports categorized.
3 I informed the operator of problems relating to inadequate
4 sediment controls. I wrote seven violations, four of which
5 for conducting ground disturbing activities off the permit
6 and three violations for having inadequate sediment control.
7 I wrote two closure orders. One for being off the permit
8 and having inadequate sediment control. I wrote three
9 inspection reports categorized as no action extending the
10 abatement deadlines for previously written informed operator
11 inspection reports due to the work not being completed by
12 the...in the allowable time frame. I wrote one violation
13 extension which extended the previous written violation
14 abatement date due to the required work was not completed by
15 the violation listed abatement deadline.

16 Some of the violation were written due to required
17 work not being performed that was listed on previously
18 written inspection reports labeled as "Informed Operator
19 Problem". And one of the two closure orders was written due
20 to required work not being performed on a violation
21 that...within the allowable time frame.

22 The history of the Evan's 06AMV pipeline permit,
23 which is the permit that has the two violations against it
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1 where we're recommending civil charges, before the permit was
2 issued, we did a pre-permit walk through in the field. I did
3 it with three of Evan's employees, one from permit and two
4 from the operations side. And it was stated to them numerous
5 times that day that everything you do has to be on the permit
6 as in right of ways and construction access roads.
7 Everything has to be done on a permit and if you need
8 additional roads, pipeline right-of-way, whatever, it has to
9 be permitted up front. It was stressed...it was emphasized
10 erosion sediment controls have to be in place before all
11 ground disturbing activities are commenced.

12 On 12/5/2000, the first inspection of the 06AMV
13 took place, the result...the inspection as a result informed
14 operator of problems for having inadequate sediment controls
15 installed and a violation was written for the clearing and
16 constructing of unpermitted pipeline construction access road
17 being approximately 1,800 feet in length. It was stated on
18 that associated inspection report and also stated directly to
19 the Evan's pipeline inspector on site that the access road
20 was not to be used again until it had been modified to the
21 permit.

22 On 12/11/2000, another inspection was performed.
23 The operator had installed much of the required sediment
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1 controls and was not using the unpermitted access road, but
2 it was told to me that the road was going to be added to the
3 permit but had not yet been done so.

4 On 1/19/2001, another inspection was performed. At
5 this time, it was observed that the operator was not
6 installing sediment controls as the operations ground
7 disturbing activities progressed. It was also observed that
8 the previously installed sediment controls were for the most
9 part not being maintained and as a result of this, heavy
10 sediment was being allowed to leave the permitted area in
11 many locations along with being allowed to enter the adjacent
12 creek in the form of heavy sediment, laden drainage and in
13 the form field slope slides. As a result of this, violation
14 number 878 was written for having inadequate sediment
15 controls which is one of the violations for recommending
16 civil charges.

17 During this same inspection on 1/19/2001, it was
18 further observed that the operator was back to using the
19 still unpermitted access road again for pipeline construction
20 as well as having extended and cleared and ground disturbed
21 an additional approximately 1,700 feet in length. This
22 resulted in writing violation number 876, which is the second
23 violation as part of the recommendation for civil charges.

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1 In addition, during this 1/19/2001 inspection, it
2 was also observed that the operator installed pipeline in two
3 separate sections along pipeline right of way that was
4 unpermitted. As a result of this, violation number 877 was
5 written also for being off the permit.

6 A closure order was issued that day, shutting down
7 the operations until the unpermitted access road and the
8 unpermitted pipeline right-of-way were modified to the
9 permit. This involved the two violations number 876 and 877.
10 These unpermitted areas were modified to the permit rather
11 quickly and the closure order was lifted on 1/25/2001 as well
12 as the two violations were cancelled that day relating to
13 that closure. During the closure order being in effect, no
14 additional pipeline installation was permitted to be
15 performed but the operator was allowed to maintain the site
16 and was instructed to be installing the sediment controls
17 that were lacking from the number 878 violation.

18 The site was inspected again on 1/29/01, 2/8/01 and
19 2/9/01 where the sediment controls that were required to be
20 put in under the 878 violation were still not found to be
21 adequate and the violation could not be cancelled at those
22 times. So, the violation was extended each time.

23 The site was inspected again on 2/14/01, and the
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1 sediment control work was now found to be acceptable and
2 complete and the violation of number 878 was cancelled. It
3 took 26 days to complete the required sediment control work
4 before the violation could be cancelled. The original
5 violation allowed eight days to complete this work. The
6 violation number 878 and violation 876 for using unpermitted
7 construction access road and extending it all pre-permit are
8 the two violations involved in the recommended civil charges.

9 BENNY WAMPLER: Any questions of this witness?

10 MAX LEWIS: The access road that you was talking
11 about there, was it modified and put in the permit later?

12 MARK DEERING: Yes, sir. Yes. On the 20---.

13 MAX LEWIS: That 1,700 foot that you were talking
14 about.

15 MARK DEERING: Well, it was two sections of it. The
16 first...the first time they were on, it was approximately
17 1,800 feet and then when they went back on it again, still
18 pre-permit, was another 1,700 feet. So, it was somewhere
19 between 3,500 and 4,000 feet of unpermitted road they were
20 using. But, yes, it was modified shortly after. That was
21 when the closure order was lifted when they modified those.

22 MAX LEWIS: The permit?

23 MARK DEERING: When they permitted those, yes,
24

1 that's when we lifted the closure order.

2 BENNY WAMPLER: Anything further. Mr. Wilson?

3 MASON BRENT: May I ask one question, Mr. Chairman?

4 BENNY WAMPLER: Yes.

5 MASON BRENT: How would you characterize the

6 company's attitude through out all of these NOV's and this

7 interaction between the department and company?

8 MARK DEERING: It was rather a passive type of---.

9 MASON BRENT: Was it at all confrontational or

10 just---?

11 MARK DEERING: No.

12 MASON BRENT: ---passive...passive resistance?

13 MARK DEERING: Right. It was just rather passive.

14 BOB WILSON: I'd like to give you two examples here

15 of kind of what we're dealing with here and why Evan was

16 given or how they were given the opportunities to...to

17 correct the situation. A letter dated September the 19th,

18 2000, written by Gary Eide in which he states that he was

19 conducting a pre-permit inspection concerning a pipeline

20 application. During the review...this is a pre-permit

21 inspection. Now, before the permit is issued, I found that

22 the pipeline had already been established. A closure order

23 was issued instructing the operator to cease operations. The

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1 letter goes on, "Conducting any gas and oil operation without
2 a permit is a serious violation and it could result in the
3 issuance of civil penalties." He also issued an NOV for lack
4 of sediment control at that same time.

5 The second one is---.

6 BOB DAHLIN: Excuse me, Bob---?

7 BOB WILSON: Yes.

8 BOB DAHLIN: ---could you...could you restate the
9 date on that first on?

10 BOB WILSON: Certainly. It was September the 19th
11 of 2000.

12 BOB DAHLIN: Of 2000, okay.

13 BOB WILSON: And on October the 13th of 2000, Mark
14 was inspecting a well site, which actually Gary had inspected
15 originally. Gary had been on the site and had first of all
16 issued information to the operator indicating that they
17 needed to install erosion sediment control. He went back for
18 a subsequent inspection, that had not been done. He wrote a
19 notice of violation. In the meantime, we switched the
20 inspection areas. Mark took over. Mark went back to his
21 first inspection of that particular site and found that even
22 under the notice of violation, which was overdue, the
23 sediment control still had not been put in place. He

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1 extended the notice of violation and stated at that time "the
2 violation will be extended if the required work is not
3 performed by this time, a closure order will be issued with
4 possible civil charges recommended."

5 We believe that Evan has been given ample
6 assistance, time and warnings to correct these things and if
7 you would like, we can now go through our recommendation and
8 show you how we derived the points that we have come up with
9 here and the numbers that we're proposing very briefly.

10 I would refer to the Civil Charge Procedural Rule.
11 All of you should have a copy of this, I believe.
12 The...we'll go over violation 878 first for inadequate
13 erosion and sediment control. I call your attention to
14 tables one through five on pages five, six and seven of the
15 Civil Charge Procedural Rule. The first criterion for
16 establishing a civil charge is the seriousness of the
17 violation. The first column of table one on page five under
18 "Damage To The Environment", the table states that five to
19 six points must be assigned if actual or potential damage
20 occurred correctable only after substantial effort or time.
21 Actual damage did occur in that the creek was flooded with
22 sediment from the site and the substantial time, being 26
23 days, under an extension of the viol...the abatement period

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1 was required to correct the problem. We assigned six points
2 to this. We found no public health, correlative rights or
3 obstruction of enforcement issues.

4 Under table two, we assigned three points for
5 operator negligence. Section V on page two of the Procedural
6 Rule defines negligence in part, "as the failure of an
7 operator to prevent the occurrence or to correct the
8 violation due to indifference; lack of diligence or lack of
9 reasonable care. The operator has exhibited a pattern of
10 similar violations at other sites." We assigned three points
11 to that. Since it took 26 days and an extension of the
12 violation to correct the problem, we did not issue any good
13 faith points under table three. It ended up with a total of
14 nine points, which on table five on page six gives a base
15 civil charge amount of \$2,100. Table five, a history of
16 violations charges, there was one other violation on this
17 permit but since the other civil charge we're recommending is
18 also in this same permit, we chose to apply this once and it
19 applied it to the other permit.

20 Violation 878 for constructing and utilizing
21 unpermitted access road. Table I again requires that three
22 to four points be given for moderate or significant or actual
23 or potential damage to the environment occurred. Disturbance
24

1 associated with the unpermitted areas contributing
2 significantly to the sediment discharge into the creek, we
3 assigned three points for that. The last column on table
4 one, obstruction to enforcement.

5 AUDIENCE: What page are you on, sir. I can't find
6 it. I'm looking at (inaudible).

7 BOB WILSON: I don't think you have---.

8 BENNY WAMPLER: You wouldn't have that. This is for
9 the Board members.

10 AUDIENCE: Oh.

11 BOB WILSON: Just the Board members only have this,
12 I believe. I'm sorry.

13 AUDIENCE: Thank you, sir. (Speaking from the back
14 in audience. Inaudible.)

15 BOB WILSON: No. We don't...we didn't pass this
16 out.

17 AUDIENCE: Okay.

18 BOB WILSON: Under obstruction of enforcement, the
19 lack of a permit on this area, which is our basic
20 administrative requirement, the failure to provide the
21 notices that go along with the permit, operating on the
22 location which gives us the opportunity to schedule and
23 perform inspection, that's our basic administrative
24

1 requirement. We issued an additional four points under that
2 for failure to follow that particular requirement, giving a
3 total of seven points.

4 Under table two, we've assigned a full six points
5 for gross negligence. Section V of the Procedural Rule
6 defines gross negligence as "reckless knowing or intentional
7 conduct". And it goes on to say that "knowing or intentional
8 conduct occurs when the operator is aware of the potential or
9 actual violation but fails to avoid or correct the
10 violation." I think we've shown that the operator received
11 numerous notices of violation and closure orders for working
12 off the permit, including a notice of violation for working
13 in this specific area that they got off at one time and then
14 went back to it again without a permit. We see no reason
15 that they shouldn't have known about that and have conferred
16 that the status of gross negligence.

17 We did issue two good faith points under table
18 three. The operator did modify the permit rapidly in order
19 to bring that access road into the permit. A total of eleven
20 points were assessed under NOV 876G as a total base charge of
21 \$3,400 from table four. As I said earlier, there was one
22 previous notice of violation which is an additional \$40
23 charge and that violation was for operating off the permit in
24

1 this same area and that's how we arrived at these
2 numbers...this recommendation.

3 BENNY WAMPLER: Any questions from members of the
4 Board at this point?

5 (No audible response.)

6 BENNY WAMPLER: Do you gentlemen have any questions?

7 BOB DAHLIN: I don't believe we've got specific
8 questions.

9 BENNY WAMPLER: Okay. All right. Do you want to go
10 ahead and put on---?

11 BRINT CAMPTON: Okay, I'll go ahead and get started.

12 BENNY WAMPLER: If you will, restate your name for
13 the record.

14 BRINT CAMPTON: Okay, my name is Brint Campton,
15 Chief Operating Officer for Evan Energy. I've been in the
16 oil and gas business for 24 years, I guess. I began working
17 in Virginia in 1977. I worked for Equitable Resources in the
18 early development of the Nora Field, Coalbed Methane,
19 permitting disposal...the disposal wells. I left Equitable
20 in '94 and in '96, we began with a couple other partners Evan
21 Energy. Our focus has been developing oil and gas reserves
22 in Eastern Kentucky and Southwest Virginia.

23 We began laying some pipeline in Southwest Virginia
24

1 as Gary said, I think, back probably in '98. We've
2 got...we're drilling right now. We have three rigs running
3 in Eastern Kentucky in Harlan County. We're getting ready to
4 start drilling in Lee County, Virginia. I've got four
5 pipeline crews running right now.

6 We're in the process of laying a major pipeline out
7 of Rosehill, Virginia heading South. I've got a map, but I'm
8 not sure what the best way is if anyone can visualize what
9 we're doing. We're developing acreage up in Harlan County
10 and Lee County, Virginia. We have laid a line, the one that
11 Gary had talked about coming out of Harlan and heading to the
12 Southwest to Clayborne County and Clayborne County has
13 installed a utility district.

14 In all of our conversations, Evan Energy drills and
15 explores and produces oil and natural gas. But we also have
16 our own pipeline company that lays the lines for us. We're
17 supplying gas to Clayborne County. We recently laid a
18 pipeline back to...from Rosehill back to Dot to a Federal
19 prison that's being constructed there. From that line is the
20 line in question that we had begun laying. From this point
21 up to St. Charles to some acreage that we have in the St.
22 Charles area. At the same time, we're laying a ten inch line
23 from Rosehill back down to East Tennessee. So, we do have

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1 substantial operations and we are probably not your typical
2 little mom and pop outfit.

3 We are very active. We're very busy. We're very
4 understaffed and this will come out in some of these things.
5 Trying to get quality people to help us to take on such a
6 large project, it's very difficult. We realize that we're
7 not the perfect operator. It is our...it is our intention to
8 be that, but it has been a struggle to this point.

9 I would like to go over the issues that are in the
10 violations and have a...discuss a little bit about each of
11 those. We realize in some of these cases that, you know,
12 we...we were at fault on these things, I think, to a certain
13 extent. Some of them may have been overstated and we'd like
14 to at least address a few of those to give you...give you a
15 little bit of a viewpoint from our side. On the violation
16 878, inadequate erosion and sediment control and these
17 violations are dealing with the 06AMV pipeline which we are
18 constructing right now.

19 BOB DAHLIN: If I could, my name is Bob Dahlin. I
20 think most of you guys know me. I've been in the business
21 for about 25 years, also. Equitable Resources is primarily
22 the background that you know me from. I've just...I've been
23 an employee for about...since the first of the month. So, my
24

1 knowledge relates to when I was consulting for them which has
2 been about four months prior to that. I have some personal
3 knowledge about this specific line and I'll just make
4 comments as we go along to Brint. But, I wanted to point out
5 that both...both of the violations were only on this small
6 segment that's referred to as 06AMV just for point of
7 reference. That's...this is the only...only segment that
8 we're talking about. Excuse me for interrupting, Brint.

9 BRINT CAMPTON: For the violation 878, inadequate
10 erosion and sediment control, part one, seriousness of
11 violation significant actual or potential damage, six points.
12 We agree that there was some siltation taking place out
13 there. We did have controls in place. We had erosion
14 controls in place. Silt fencing, straw bails. On a rainy
15 day, a hard raining day in a rainy period which was when we
16 were putting this thing in, it was evident that while they
17 were in place, some of them were not properly installed and
18 it became evident on hard rainy days.

19 I do also want to point out that the area of
20 concern is in an area that is...it's an old abandoned pre-
21 permitted strip bench that we were on at the time. It was
22 not a reclaimed strip bench. It was prior to permitting. It
23 was in an area that's unpopulated. It's on coal company
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1 property. There's not a major ground disturbing area that
2 were out on. This is an extremely remote area. Not that
3 that makes it any better, but it does have an impact on how
4 significant that the impact really was.

5 We feel like that while we did have some siltation
6 out there, we don't believe that it was a significant
7 situation. More of a moderate to even a slightly on a range
8 of scales of the table there.

9 And for part two on a degree of operator
10 negligence, it's defined occurrence not prevented due to
11 indifference, lack of diligence or reasonable care. I
12 believe that that is three points there, which is on the very
13 high end of the scale. I will point out that we did have
14 siltation control out there. It wasn't that we didn't have
15 any controls out there. We weren't running roughshod or
16 anything like that. The roads had sedimentation controls.
17 As I mentioned earlier, we were in there in a very rainy
18 period. So, obviously in some cases they did get over runned
19 or in some cases, it was apparent during heavy rains that
20 they weren't properly installed and we admit to that. But we
21 did have controls in place. We don't feel like it was a
22 matter of indifference. We also had some other controls
23 besides the ones mentioned out there.

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1 Evan Energy is constructing all of these pipelines
2 as gathering lines. They're non-regulated pipelines.
3 However, we are constructing them based on DOT standards.
4 We're not required, but we are constructing them on DOT
5 standards.

6 We're having to go to great expense to bring in
7 third party inspectors. We're paying some major dollars to a
8 third party engineering firm to inspect what we're doing.
9 Part of their responsibilities were to monitor for us our
10 sedimentations controls. We've had several discussions with
11 them since these issues have come up about why we weren't
12 alerted from our own third party inspectors and I can tell
13 you that we were paying them some significant dollars to look
14 over our shoulders for us.

15 The pipelines are being laid. We're bringing in
16 third party x-raying companies to x-ray our wells for us to
17 make sure that we're welding the pipe properly. We're doing
18 this at 20% of the wells. I think all that's required is
19 10%. We're testing the line, we're testing the pipelines
20 based on Class III locations, which are the most stringent
21 tests that are out there. They're for when you're running
22 pipelines beside schools and through towns. Again, this is
23 all back in the middle of the mountains. This is all Class I

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1 type of locations but we're going the extra step to make sure
2 that it's properly tested and installed.

3 When we tested the line going to the prison, this
4 particular line, we went so far as to invite all of the
5 people that lived along the pipeline at our expense to go to
6 a local hotel. We put them up there for two days and nights
7 and fed them during that time while we tested. We've never
8 had any problems testing. We didn't see a problem anywhere
9 testing with water, but we wanted to make sure that everyone
10 in the area was comfortable, that while we were in the area
11 doing this testing, that they didn't have to be there and we
12 gave them the option just to leave and we had 39 families
13 that we put in hotels during that period of time.

14 So, we feel like that we are doing a lot of things
15 out there. We may not be doing some of the things the best
16 in the world and we're continuing to try to improve on that.

17 Some of the things that we are doing out there is
18 we have developed time reclamation crew out there. Their job
19 is to look over all of our pipeline operations and make sure
20 that we are staying in compliance. We are dealing with any
21 issues out there. We're using the rainy days...in the past
22 for pipeline operations, rainy days usually meant shut down
23 and send everyone home. We're using the rainy days for our
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1 reclamation crew to go out there and audit the work that's
2 going on. It's hard to tell if the siltation fences are up
3 there properly. If the straw bales are up there properly
4 during dry conditions. When it really shows is when it
5 rains. Now, we've got crews going out there during the rainy
6 days to audit what they're doing and to fix those situations.

7 The supervisors that were in charge of the
8 pipeline, one of them was...one of them that Mark had
9 mentioned was out there during the walk through at the very
10 beginning. The particular supervisor has had a long history
11 in the past working with Mark from what I understood. Some
12 comments were even made out there that Mark had a comfort
13 factor in that supervisor. That...that comfort factor gave
14 us a comfort factor.

15 BOB DAHLIN: I was one of the other people there
16 that day. I was very comfortable, also. Mark and I had a
17 conversation. He knew the supervisor, who I did not know at
18 the time. I was just getting my feet on the ground here with
19 this company. Since they did have a background and a working
20 relationship and I remember Mark saying, "R.D.", excuse me
21 for using the initials, he says, "You know how to install
22 this stuff." He says, "Use your head." I felt very
23 comfortable. Go ahead.

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1 BRINT CAMPTON: Yeah, we had a comfort factor there
2 that our supervisor knew what he was doing and had a good
3 relationship and with that, that was one of our controls out
4 there.

5 (Mr. Dahlin and Mr. Campton confer.)

6 BRINT CAMPTON: Yeah, we have...we have let our
7 supervisors, both R.D. and another one that was out there
8 during some of the problem times, we've demoted them back
9 down to equipment operators. We've installed new supervisors
10 out there trying to correct our situation and get better at
11 what we're doing.

12 We have talked with the Virginia Department of
13 Conservation and recreation. They have a training seminar
14 that they put on frequently. We've asked them to come in and
15 do an in-house training course. They...they've not been able
16 to do something like that. But they do have the ones that
17 they offer on a regular schedule and we are signing up all of
18 our reclamation crew and a significant number of other
19 employees out there to go through that training exercise so
20 that they can learn a little bit better about how to...how to
21 handle the erosion and sediment control measures that are
22 needed out there.

23 We've also even come up with a little deal there on
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1 littering. We've had some trouble littering out there. When
2 our pipeliners are having lunch, they...sometimes they have a
3 tendency of just throwing their trash down. We've instituted
4 a policy out there that if they are caught littering, they
5 have two choices, either pay a \$50 fine or take three days
6 unpaid leave.

7 We are trying to implement procedures out there to
8 get better at what we're doing. I won't say that we're going
9 to be there tomorrow. But we're continuing to emphasize this
10 out in the field of what's going on. Pay attention to it, to
11 react to it and to act more than react.

12 As far as what was mentioned on the one situation
13 there on the violation where it took us 26 days to correct
14 the violation. I will tell you that portions of that time,
15 and this was during a time, again, when we had a lot of rainy
16 weather and we couldn't get out there and do some of the work
17 without doing more damage. We went out there and made
18 corrections. We immediately sent a crew out there. This
19 issue came up on a Friday and we immediately sent a crew out
20 there and spent the whole weekend and the whole week out
21 there fixing these issues that were brought to our attention.

22 We, at certain times during the 26 day period, felt like we
23 had done what we needed to do and were later told that no, we

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1 had missed some areas and we had trouble finding out exactly
2 the concerns and exact specific areas where we needed to
3 address them. So, that's another thing that drug the process
4 on.

5 BOB DAHLIN: This also is during the same period of
6 time when we were moving from one supervisor to another
7 supervisor. So, although it's not a...not an excuse, it's an
8 explanation and part of our communication problems and
9 identifying the specific areas.

10 BRINT CAMPTON: I'd like to move on now to the
11 second violation that's out there. Violation 876,
12 construction and utilization of an unpermitted access road.
13 This again deals with the same...same area. Part one is
14 seriousness of violation. Moderately, significant, actual or
15 potential damage, three points. Violation of administrative
16 requirement that tends to hamper or obstruct enforcement,
17 four points, and that's the maximum amount of points.

18 Again, I'd like to go back and maybe describe the
19 situation to a certain extent and that we were on coal
20 company property, on an abandoned, under claimed strip bench;
21 and as we were working our way around the strip bench, the
22 pipeline then began going over the hill and then back up on a
23 point on the other side. And this ended up being a lot more
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1 difficult from the pipeline aspect than we anticipated. On
2 the first incidence, the pipeliners thought that they could
3 continue on around the same strip bench to the other point
4 and drop down to assist the group that was going downhill
5 there. They were not aware at that time that this was not
6 permitted road. Once we recognized that, we shut them down.
7 We went out there and we strawed and seeded the bench that
8 we were...that we were on. Again, it was a strip bench that
9 we had been on all the way around and then you continue on
10 around it a little ways.

11 BOB DAHLIN: Is that your 1,700 feet, Mark, that you
12 mentioned in the first violation?

13 MARK DEERING: Yes.

14 BRINT CAMPTON: We were in the order here assigned,
15 assessed and moderately significant actual potential damage.
16 Again, we admit that we had worked off of the permit there.
17 That we were on an abandoned strip bench and we feel like
18 the actual amount of damage was pretty insignificant on the
19 area that we were on.

20 As far as the violation of administrative
21 requirement that tends to hamper or obstruct enforcement, I
22 believe we quickly seeded and strawed that area that we were
23 on and instructed our people to stay off of that. They did
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1 get back on it a second time. This was probably, and someone
2 can correct me, probably a couple weeks later that they were
3 back on it, I believe. At that time that they got back on
4 it, it was after we had already received the proper waivers
5 from the coal company and a separate surface owner that was
6 on out around the bench. We had already met with them and
7 prepared the permit to add that road. We got the waivers
8 from them. The permit was inhouse and I believe that was the
9 reason the inspector was out there and it was a communication
10 problem on our part. The field knew that we had applied for
11 the permit. They knew we already had the surface owners's
12 approvals to go on around there. They had mistakenly assumed
13 that meant that they had the ability to go on around there.
14 They didn't realize that the actual permit for that road had
15 not been issued. Again, it was more communication problem
16 there than anything.

17 So, we don't feel like, again, getting maximum
18 points for violation of the administrative requirement
19 because at the time we're out there the second time. You
20 know, we had already received all the waivers from the
21 surface owners. They knew what we were doing out there.
22 They didn't have any problem with what we were doing out
23 there. The permit was applied for, for that modification.

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1 It just hadn't been issued.

2 Part two of that violation, degree of operator
3 negligence, gross negligence, knowing or intentional conduct.

4 Operator was aware of potential violation but failed to
5 avoid or correct the violation and we got a maximum of six
6 points on that. Again, at the time the crew went across the
7 road a second time, but we did have the waiver in place. We
8 had the surface owners's approvals to do all of that. The
9 major surface owner was the coal company that we were laying
10 the majority of the pipeline on in the first place and the
11 same coal company that we're drilling all of the wells on are
12 all oil and gas leases on that coal company. The...to me,
13 the real problem at that point was an internal problem.

14 Again, we were at fault. We were on the strip bench again
15 even though it had not actually been permitted at that time.

16 Our problem was a communication problem with the field. But
17 I don't feel like this was a gross negligence and it
18 certainly wasn't done on Evan Energy's part as an intentional
19 situation.

20 I'd like to also mention one other area that was
21 mentioned that we were off of...off of permit and that was in
22 the construction of another pipeline. That was a pipeline
23 coming off of a well 8709 that Bob had mentioned there at the

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1 end where the inspector had gone out there and the pipeline
2 had been established. 8709 is a well that's over in the Ben
3 Hur field. The pipeline that we've pointed out going down to
4 the prison, we began giving them some gas before the entire
5 line was complete from that well. They needed some gas to
6 help during the construction of the federal prison. Without
7 the pipeline being completed at that time, we had no way of
8 getting them gas from our traditional fields and we connected
9 this one well to the prison line at that point. The prison
10 line was laid as a pipeline under the State Corporation
11 Commission as a utility line to feed the prison. When we
12 connected this well to the line, the line ran within a couple
13 hundred feet of the well. We had a meter on the well site
14 and it was our interpretation that the jurisdiction of the
15 DMME is at the point of sell and the point of sell was the
16 meter at the well site. From that meter, we ran a line a
17 couple hundred feet to tie in to the prison line. So, we
18 felt like that particular section of line, since it was
19 downstream of the meter, was part of the State Corporation
20 Commission pipeline because the point of sell was actually at
21 the well location. But we have gone back and permitted that
22 line. But we did construct that line on our interpretation
23 based on it being under a different agency.

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1 BOB DAHLIN: I believe that was the date that Mr.
2 Wilson gave you, September the 17th of 2000, the perception
3 being that we were continuously doing something off permit,
4 knowingly. In this circumstance, it was knowingly. It was a
5 difference of an opinion of who we thought the regulatory
6 agency was. Again, just for perception purposes and we feel
7 that the weighing of all these penalties were based on
8 instances like that.

9 MASON BRENT: Were there...may I ask a question?

10 BENNY WAMPLER: Yes.

11 MASON BRENT: Were there...were there any
12 discussions with these folks about whose jurisdiction that
13 mine falls under prior to constructing it, or did you just
14 assume that it was---?

15 BRINT CAMPTON: Well, we---.

16 MASON BRENT: ---an SCC jurisdictional issue?

17 BRINT CAMPTON: We had had some discussions about
18 where jurisdictions began and ended and in all of those
19 discussions, it was the first point of sale, which in our
20 interpretation was at the meter at the well head.

21 BOB WILSON: Mr. Chairman?

22 BENNY WAMPLER: Mr. Wilson.

23 BOB WILSON: If you thought that pipeline was under
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1 SCC jurisdiction, or not under these DGO jurisdictions, why
2 did you submit a permit to DGO for that line? It's my
3 understanding that the reason Gary was down there was to do a
4 pre-permit inspection on that line. Is that correct?

5 GARY EIDE: That's correct.

6 BOB WILSON: So, you had submitted a permit
7 application to us, but you're saying you didn't think that
8 the line should be under our jurisdiction?

9 BRINT CAMPTON: Well, I guess basically we were just
10 trying to cover all bases on the situation. That we felt
11 like it was not and that's why we began the construction of
12 it. Then after having some conversations, we felt like we'd
13 rather cover all bases than...to protect ourselves.

14 BOB DAHLIN: Plus, this whole pipeline scenario was
15 laid under one set of circumstances and we're anticipating
16 changing some of the pipeline to be under DMME at some point
17 in the future.

18 BRINT CAMPTON: In conclusion, I'd like to maybe
19 summarize at least for the Board some of the things that we
20 were trying to do out there to be better at what we're doing.

21 BENNY WAMPLER: Can...before you move to that, can
22 you distinguish, is that after these violations were written
23 that you're doing these things?

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1 BRINT CAMPTON: Ummm---.

2 BENNY WAMPLER: I don't want to interrupt you.

3 BRINT CAMPTON: Some of them were before and some
4 were after.

5 BENNY WAMPLER: Okay.

6 BRINT CAMPTON: We have, after the violations were
7 written, developed a full time environmental crew as I had
8 mentioned. They will be training through the DCR program.
9 They are working out there every day. In the past, we had
10 the tendency of pulling some people off of these crews if we
11 needed them on the pipeline site to help out. But they're
12 dedicated to that now and they are going out there during wet
13 weather to audit their work to make sure that we are covered
14 out there.

15 We removed the supervisors that were responsible
16 for conditions that were out there. I say we've removed
17 them, actually we've...they're still Evan employees, but
18 they're no longer in a supervisory role.

19 One of the things that we have done recently that
20 we're very proud of is that we now offer 401 and medical
21 benefits to all of our employees, all of our pipeline
22 employees. And one of the reasons why I mention that is
23 because we feel like by being able to do things like that at
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1 a great expense to us, but that will help us attract quality
2 people to work for us to help to be more aware of these types
3 of issues and do something about it.

4 As I've mentioned, we've got fines out there for
5 littering, and just an overall awareness of the environmental
6 concerns. That's an easy statement to say. Anyone can say
7 that, but we are working very hard making sure that everyone
8 knows the significance of what we're doing out there.

9 We plan on being around for a long time. And the a
10 way we're going to survive and be around for a long time as
11 we do things right. We recognize that and we're trying to
12 get that across to all of our employees. Typical pipeline
13 employees work for a company for three to six months on a
14 specific job and then they're all wandering around again
15 finding their next job. They're not used to being with a
16 company for long term. We feel like our pipeline company is
17 going to be around for a very long time. We're working with
18 Duke Energy on this pipeline. And Duke Energy has been very
19 impressed with the construction portion of our work and they
20 are getting very active in the area and they have told us
21 that our pipeline companies are going to be busy for a long
22 time. So, we're trying to build into the mentality of the
23 pipeline people out there that they're not here just for a
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1 short time and moving on to another job. They're going to be
2 here for a long time and that they need to do a better job
3 and taking care of business out there.

4 Some of the...some of the positive aspects of Evan
5 Energy: We just got started basically four years ago with
6 four or five of us sitting around the table knocking around
7 the idea of starting this company out. We now have over a
8 hundred employees. And I can tell you we're very proud of
9 that. It's a nice feeling to know that last Christmas there
10 were a hundred families out there that had a nice Christmas
11 because of what we're doing out there.

12 We've moved an office into Lee County, Virginia,
13 into Rosehill. We've got our pipeline office there. So, we
14 have a presence in Virginia. We're hiring a lot of Virginia
15 people.

16 We're supplying gas to local industry in Lee County
17 and Lee County people, from every indication that we've seen,
18 are very happy. They're tickled to death we're in there.
19 We're helping to attract industry into Lee County because
20 they now...now they do have gas there and that was one of the
21 biggest hurdles they had. They had nice roads. It's a
22 wonderful part of the countryside and they've got a good work
23 force. They've got a good rail system. The one thing they
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1 were lacking was natural gas and we've been able to bring it
2 in there.

3 We are helping the local economy through taxes,
4 through hiring the people, through eating in the restaurants,
5 sleeping in the motels, through paying royalties. So,
6 there's a lot of good things that we are doing out there. We
7 are trying to be a good community citizen out there in Lee
8 County.

9 We've helped the government out, the State of
10 Virginia out in several situations, the Red Onion Prison.
11 The people at the prison worked for several years trying to
12 get a pipeline of natural gas into the prison. They were
13 running propane air at very high costs. They had gone to
14 several different companies to try to get them gas and no one
15 could do it cost effectively for them and we came along and
16 we basically were able to put a gas line working with the
17 Department of Corrections and we got the pipeline in probably
18 50% cheaper than anyone else could have done and made it a
19 project.

20 We've recently did a re-route on this very
21 particular pipeline that we're talking about, the 06AMV. We
22 did it before the DMME and the Corp. They have a project
23 that they was...that they're working on that fell underneath
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1 a portion of where we were laying the pipeline and we shut
2 down our operations. We re-routed the pipeline at an expense
3 to us in order to help the Corp out.

4 And we are getting a great response from the locals
5 in Lee County. We, as I've mentioned, housed the 29 or 39
6 families as we were doing the testing. We got a great
7 response from them and they were very thankful that we gave
8 them the opportunity to have the choice.

9 We're in the process of, as Bob had mentioned, of
10 re-permitting and taking this prison line out of the State
11 Corporation Commission and bringing it under the DMME. The
12 original intention of that pipeline was to supply gas as a
13 utility line with the acquisition of the acreage over on the
14 Eastern side of Harlan County, we're now using that pipeline
15 for a completely different purpose. So, we're looking at
16 transferring that line to the DMME. It's a pipeline that's
17 already in the ground. It has already been tested. It has
18 already cathodically protected, already x-rayed tested. The
19 one...the one difference between how it was permitted before
20 in the DMME is that if that pipeline falls within any houses
21 that are within 50 feet of the pipeline, we have to get a
22 variance from the people in that...in those houses. We've
23 got approximately 43 of those houses that are within 50 feet

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1 of it because the line runs along the road and we have gone
2 back in to start collecting those variances. This is a
3 pipeline that's already in place. We've already been in
4 there and we've already done our work and we've done our
5 clean up and we have not had any trouble getting any
6 variances from any of the people. If we were doing a sloppy
7 job, if we weren't doing...if we weren't being a good
8 corporate citizen out there, we would be struggling to get
9 those. But I think that's a good sign of really how good a
10 job we are doing out there that these people are willing to
11 sign a variance to allow us to re-permit this.

12 So, there are a lot of positives out there. I can
13 tell you we're not perfect, but I can tell you we're working
14 very hard to get that way. And I'll be glad to take any
15 questions that you have.

16 BENNY WAMPLER: Any questions from members of the
17 Board? Mr. Garbis?

18 DENNIS GARBIS: During the period that you had the
19 notice of violation that you were given eight days to correct
20 specific items, when that period of time passed, did it occur
21 to you maybe to request an extension, or was there any
22 dialogue with the inspectors maybe to communicate to them
23 that you were trying to do ABC, but because of weather,

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1 because of material unavailability or whatever, that there
2 was some dialogue that could have convinced them that you
3 were making a good faith?

4 BOB DAHLIN: I had some dialogue. I informed Mark
5 that we had field people just on foot in there and I told him
6 that our supervisor told me that he just could not put a
7 dozer up in there. He said, if I go in there right now, he
8 says, I'll tear up more than I can ever possibly fix. I'm
9 not sure of the exact date, whether that was in that first
10 eight days or not. I'm...I'm really not sure. I did talk
11 with our people and I know at least one time, I told Mark we
12 had people on foot in there, but not a dozer.

13 DENNIS GARBIS: But you were given eight days to do
14 something and when the eighth day arrived and you hadn't---.

15 BOB DAHLIN: Right.

16 DENNIS GARBIS: ---done what you were supposed to
17 do, then obviously, I think it was incumbent on your part,
18 you have to pick up the phone or write a letter or something
19 to the State people and say, look, I know you told me to do
20 something by the 8th, I wasn't able to do it for the
21 following reasons and can you give two more days to work;
22 because of the weather, I can't do it. I mean, did that
23 enter into this at all?

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1 BRINT CAMPTON: Well, I can tell you we had full
2 time crews working every...you know, every day during those
3 eight days and I can't answer specifically, but I believe
4 that we felt like that we had done everything that we needed
5 to do and then Mark came out there and inspected what we had
6 done and felt like there was still some other areas that we
7 needed to continue to work on. And we were trying to get an
8 understanding from him exactly more specifically what the
9 areas were and he pointed them out to us.

10 DENNIS GARBIS: So on the 8th day, did you got out
11 to the site again and inspect it?

12 MARK DEERING: Okay, yeah, I would like to respond
13 to some of this. Like I say, the first inspection I did was
14 the 5th of December. At that time, the problem that we were
15 talking about on this violation was not a strip bench like
16 they...like they're saying. It was the primary access road
17 from the railroad track and blacktop up the hill to the strip
18 bench and it runs directly adjacent to an active creek.

19 The first time I was out there on the 5th there was
20 no sediment control in place and that's when I did inform the
21 operator to get it in place. I went out there on the 11th
22 and they were still putting it in. It was not completed yet
23 and---.

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1 DENNIS GARBIS: The silt fence?

2 MARK DEERING: The silt fence. What it is, they
3 have a road going up and they've cut windows and there's
4 constant drainage coming down this road coming out of the
5 coal seams.

6 BOB DAHLIN: It's a bad road.

7 MARK SWARTZ: And it goes straight over the out
8 slope and/or creek and they had built up a berm and had a lot
9 of fresh dirt over the side. They had no silt fence, nothing
10 the first time I was out there. I did inform the operator to
11 put that up. On the 11th, I went out there and they were
12 still putting that up and doing some work like that. Also,
13 on the 5th was when I wrote the violation of being off the
14 permit on that strip bench road they're talking about. When
15 I went out there on the 11th, they were not using that road
16 again and they had put some sediment control below, which
17 they had none there before either. Then when I went out
18 there on the 19th, the day of the violation, it was pouring
19 the rain and there was nobody on site from the company.
20 Nobody...this was the first time that it had rained since
21 this project had begun. Nobody...nobody checking the
22 sediment control to see if they were working. The silt fence
23 was put in such that there was gaps under it. Water was just
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1 running under it and not through it. That's not the way you
2 put silt fence in. There was out slope slides completely
3 covering the silt fence and going into the creek in two
4 places with very large slides and I have photographs if
5 anybody would like to see these.
6 And---.

7 DENNIS GARBIS: Let me see those, please.

8 MARK DEERING: So, anyway, that was going on.
9 That's what that violation was written for. When I went out
10 there on the...the three inspections after that up until the
11 point where I could cancel the 26 days later, every time I
12 went out there, a little more was done but not all of it.
13 But the last day I went out there before I could cancel the
14 violation, I met with their environmental person on site and
15 I said this is...I still can't cancel this violation. It's
16 not done. He said, I...you know, we have stabilized one of
17 the slides, which I told them to put a heavy bed of straw and
18 seed this stuff and put up a silt fence and hay bales or
19 whatever below it to catch this stuff until he stabilized
20 ...until something was done on it. They did this to one of
21 them. I went up the hill and the second one still had not
22 been touched. He said, "I don't know where you're talking
23 about." So, we drove up the hill. It was right over the out
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1 slope of the road. We got out of our vehicle and walked over
2 and I pointed it to him and he said, "Oh, I never seen that
3 before. I guess I had to get out of my truck to see this."
4 And that was a direct quote.

5

6 So, that's my response to that one. The getting
7 off the permit, yes, it's a strip bench road they got off on
8 and they cleared...but this was a strip bench of probably,
9 just guessing, this was mined in the 50s. I mean, this was a
10 very stabilized ground at this point. This was not a fresh
11 strip bench. They went through with a dozer and cleared
12 right-of-way, and I have photographs of this, too, cleared
13 right-of-way and no sediment control up, and there again,
14 drainage going random. I wrote the violation and I told
15 them, and stated this in several inspections reports, to not
16 get on this road again until it has been permitted. I went
17 out there, like I told you, that was on the 5th, I went out
18 there on the 11th, they were not using the road, but they
19 had...they put up silt fence but had not reclaimed the bed of
20 the road. At that time, they said we're going to permit the
21 road so we don't want to stabilize the bed and redisturb it.
22 I said, "I can understand it and we'll deal with that."

23 Meanwhile, with other conversations of the permitting person

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1 on the phone, they told me that they were not going to permit
2 the road. They were not going to use the road and they told
3 me in the meantime they have stabilized the bed of that road
4 with seed and straw and that was going to be it. I went out
5 there on the 19th, and they had torn all of that out, they
6 were using the road again and extended it another...twice as
7 long. Like I said, the first time was about 1,800 feet. The
8 second time was about 1,700 feet. Extended it and using it,
9 they had pipeline construction equipment strewn all the way
10 across...you know, just random all the way up and down it.
11 And it has been stated that they were applying for that
12 permit at that time. That is totally incorrect. They were
13 applying where they had rerouted pipeline in two places off
14 the permit. They had sent in a modification in for that.
15 That's what I was out looking at and found this road being
16 used again and when I went back and told the...called the
17 permit person on my way back in, he said he had no idea they
18 were on that road and he was the one that told me they were
19 not going to permit it and that's when he started preparing
20 the applications to permit that road that day; and we got it
21 in our office days later. We did not have that in hand.

22 BENNY WAMPLER: (Inaudible).

23 MAX LEWIS: How close to the strip bench...edge of
24

1 the strip bench was the road?

2 MARK DEERING: Pardon me?

3 MAX LEWIS: How close to the edge of the strip bench
4 was the road?

5 MARK DEERING: Well, it's not a very wide strip
6 bench to begin with. It's maybe...just guessing 60 to 70
7 feet wide. So, the road took up the majority of the bench.

8 MAX LEWIS: And the pipeline, too?

9 MARK DEERING: The pipeline...where they're using
10 the unpermitted road, the pipeline is not going to fall on
11 that road. I think this was...the pipeline was going up and
12 down through a steep valley and this road bench wrapped
13 around so they were getting to the other side of the
14 pipeline. And there again, I told them on the pre-permit
15 walk through and up to the first violation, everything has to
16 be permitted to use it and that's understood. That was
17 nothing new. This here is...looking off the primary access
18 road I was telling you about, going up the hill adjacent to
19 the creek up to the strip bench. This was the day of the
20 violation for inadequate sediment control. The sediment
21 control was in place at that time, but just was either...a
22 lot of it was either installed incorrectly or was not
23 maintained such that sediment was---.

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1 BENNY WAMPLER: You can start those over here.

2 MARK DEERING: Okay. This is the unpermitted access
3 road.

4 (Board members review some photos.)

5 MASON BRENT: I heard some testimony earlier about
6 this supervisor "R.D." that everyone seemed to be comfortable
7 with. Isn't that what you said?

8 BOB DAHLIN: Yes. That was my interpretation.
9 I...again, I was just starting my consulting for Evan at that
10 time and met with Mark and three of four of us went out and
11 walked up this road that we're...that you're looking at here.
12 It was just a general conversation I heard back and forth.
13 You know, I knew the two people. I had a working
14 relationship before and the fact that he had apparently been
15 acknowledged as to knowing how to install the structures.

16 MASON BRENT: Was he one of the ones demoted?

17 BRINT CAMPTON: Yes, sir.

18 MARK DEERING: The way I knew...the way I know that
19 man, he was a pipeline...worked for the pipeline contractor
20 that installs a lot of Consol's pipeline up in Buchanan
21 County where I had been regulating for the previous five or
22 six years. They were...he worked for Mountain Pipeline.
23 They were a company that had a lot of problems when I first
24

1 started inspecting up there and the last couple of years,
2 they did do a good job of installing their sediments
3 controls. And like he said, I talked to him. Like I said, I
4 reviewed those two main things with them up front, is the
5 importance of sediment controls and the importance of
6 permitting everything you were going to be on and if it's not
7 permitted and you want to be on it, you've got to permit it
8 first. And having worked with him in the past, I said, you
9 know, you're aware of all of this stuff. You know how to
10 install this stuff. You know, what to expect. But to come
11 to find out, he's the one that ran the dozer and cleared the
12 unpermitted road. And I've heard some statements here that
13 they didn't...the people out in the field didn't know that
14 that was not permitted. But I...I guess I can't respond to
15 that. But they have maps that come with their permit that
16 show all the permitted areas, whether those people in the
17 field have the maps or not, I don't know and there's no way
18 we can require that.

19 MASON BRENT: It just kind of strikes me as odd that
20 a company representative would speak favorably of this guy
21 and then there's testimony where he has been demoted.

22 BOB DAHLIN: Well, I didn't speak...what my comment
23 was that we had a level of confidence that the people we were

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1 using---.

2 BRINT CAMPTON: Going in...going in to this.

3 BOB DAHLIN: Going in to it before it happened. We
4 had...I had a feeling that whatever silt fence that this man
5 would install, he would install correctly. We weren't really
6 looking for the problem. We got the problem. We had the
7 problem and we caused the problem. We admit that. And we've
8 tried to take measures to acknowledge it and to correct it.

9 BENNY WAMPLER: Do you all have anything further?

10 BRINT CAMPTON: No.

11 BENNY WAMPLER: Mr. Wilson, did you have anything
12 further?

13 BOB WILSON: I'd like to make just a couple of
14 comments, please, very briefly. It was pointed out that the
15 sediment controls were inadequate on rainy days and
16 that's...that's exactly why we install the sediment controls.
17 We don't need them when it's not raining.

18 BRINT CAMPTON: Right.

19 BOB WILSON: Also, the fact that the violations
20 occurred on coal company property or strip benches or
21 whatever, the regulation makes no distinction between strip
22 benches and school yards. The same regulation applies to
23 all.

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1 I would like to close by pointing out that we have
2 no reason to accuse, or imply, that Evan is committing
3 intentional acts in the field. We have...we have not made
4 that accusation. We haven't seen that there is an intention
5 ...intent involved in this. I'm not sure what the problem
6 is. It may be communication problems within the company.
7 However, I think we have shown today that we had used up all
8 of the field enforcement tools that were available to us to
9 try to get these problems corrected, to get the company's
10 attention and get them to improve whatever they needed to in
11 order to pursue these operations in a reasonable fashion.

12 We are extremely interested in the operations that
13 they are doing there. It caused considerable excitement at
14 Division of Gas and Oil that this whole new province of
15 Southwest Virginia is being open to production and the
16 economic development that goes along with it. However, it's
17 our job to see that this stuff, regardless of other
18 requirements that the company may have, is done according to
19 the State law and regulation. We would like, therefore, to
20 ask the Board to approve the charges as we have recommended
21 them.

22 BENNY WAMPLER: Questions from members of the Board?

23 MASON BRENT: Mr. Wilson, you said in the four
24

1 years...roughly four years that Evan has operated in
2 Virginia, how many NOVs have been issued?

3 BOB WILSON: 45, I believe, was the number we come
4 up, approximately 46. That's essentially equivalent to one
5 per permit over that period of time. That would be like
6 Consol being issued close to 3,000 violations in that period
7 of time going on per permit basis. As I said, we normally
8 issue around...between a 100 and 150 violations a year.
9 We'll run fairly consistently and Evan as a small, but big
10 growing company, garnered 45 in that period of time. Most of
11 those actually came in the last couple of years since they
12 got really active with pipeline permits and such.

13 I would like to point out too, that we did hold a
14 meeting with Evan at their headquarters a few weeks ago
15 subsequent to these violations. I think it was a very
16 productive meeting. They expressed to us some of the same
17 things they've expressed today that they have taken steps to
18 get this thing underway and we certainly don't want to
19 indicate that we have...that we want to take any actions
20 that's going to forestall or cause problems with their
21 operations. But we do need to make sure that these
22 operations are done correctly.

23 BENNY WAMPLER: Anything further from anybody?

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1 BOB DAHLIN: No.

2 BENNY WAMPLER: Mr. Garbis?

3 DENNIS GARBIS: Just as a comment, I guess I'm

4 somewhat concerned that not only by the number of violations,

5 but also as being a business owner myself, I'm sure

6 understand, is that ultimately I hear quite frequently that

7 the back seat man in mess hall, he always blame the guy down

8 on the trench. But ultimately, it is managements

9 responsibility to check up...you know, the old expression, if

10 the boss doesn't check, it doesn't get done very well. So,

11 unless there are some management oversight to insure that

12 people out in the field are doing what they're supposed to,

13 because I'm faced with the same thing in my business.

14 Ultimately it's, you know, our responsibility there as

15 management and owners of the companies to insure that

16 everything is done in the way it...and to comply with all the

17 rules and regulations that are there. So, I would suggest

18 that perhaps that you would look at whatever oversight at the

19 management level is necessary to insure that the people out

20 in field are doing what they're supposed to, because my

21 experience is that unfortunately in America today, it's not

22 what it was 40 or 50 years ago. People cannot be trusted to

23 do what they're supposed to. It's just not going to happen.

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1 That's just reality. I do empathize with trying to get good
2 people. This is a problem because people are not
3 conscientious and the pride element is gone, which really
4 reinforces the fact that you have to check even that much
5 more, have some system in place to make sure that things are
6 taken care of.

7 So, having said all of that, I would propose that
8 we accept the fines as requested.

9 MAX LEWIS: I second that motion.

10 BENNY WAMPLER: Motion and second. Any further
11 discussion?

12 (No audible response.)

13 BENNY WAMPLER: All in favor, signify by saying yes.

14 (All members signify yes.)

15 BENNY WAMPLER: Opposed, say no.

16 (No audible response.)

17 BENNY WAMPLER: You have approval. Thank you. Do
18 you want to take a break? We'll take about a ten minute
19 break while the next group gets ready.

20 (Break.)

21 BENNY WAMPLER: Okay, the next item on the Board's
22 agenda is a petition from Equitable Production Company for
23 pooling of a coalbed methane unit under the Nora Coalbed Gas

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1 Field Order and identified as VC-4527. This is docket number
2 VGOB-00-11/21-0848 and we'd ask the parties that wish to
3 address the Board to come forward at this time.

4 JIM KISER: Mr. Chairman and members of the Board,
5 Jim Kiser on behalf of Equitable Production Company. We'd
6 ask at this time that this hearing be continued again until
7 the April the 17th docket. We've got some potential title
8 issues which would result in some additional respondents
9 requiring notice and/or, if depending on how that works out,
10 we still got a poten...a possible guardian-ad-litem that we
11 haven't been able to obtain yet. So, with your blessing,
12 we'd like to continue that one again if we could.

13 MARK SWARTZ: Mark Swartz, appearing on behalf of
14 Buchanan Production Company. We've got an interest in
15 that...in that unit docket number two. We don't have any
16 objection to a continuance. I think that there are some
17 mapping issues and so forth that we've shared some
18 information that need to be addressed before it's pooled
19 regardless of the heir or the minor or the guardian.

20 I would, if Jim doesn't have too much heartache
21 with this, could we continue that until May, or April if we
22 can work it out, and May if we can't? Is that a problem?

23 (Mr. Kiser and Mr. Swartz confer.)

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1 JIM KISER: That will be all right.

2 MARK SWARTZ: Okay. So, we'll maybe put it on the
3 April docket with the understanding that if we settle...if
4 we've got it all worked out, we'll proceed. If not, and it
5 has to somehow be contested---.

6 JIM KISER: (Inaudible).

7 MARK SWARTZ: Yeah, exactly. Right. And you'll see
8 the reason for that. We've got---.

9 DON JOHNSON: Why don't we just do this later?

10 BENNY WAMPLER: Okay. Go ahead.

11 MARK SWARTZ: I guess then that's what we'll do or
12 at least, that's what we're asking you to do with regard to
13 the ERECs pooling item number two. Continue until April with
14 the understanding that if we've resolved it, we'll proceed.
15 If it has to be litigated and we have to duke it out, it will
16 be continued to May.

17 BENNY WAMPLER: Any problems with that from members
18 of the Board?

19 (No audible response.)

20 BENNY WAMPLER: Okay, that will be continued as
21 requested.

22 MARK SWARTZ: We're on to YYY-21?

23 BENNY WAMPLER: Yes. I'm going to go ahead and call
24

1 that. I guess I'll just go ahead at this time since a couple
2 of you, you may have some clean up to do. Is there any
3 housekeeping and then let's just take it that way?

4 MARK SWARTZ: Okay. On docket item number three
5 which is YYY-21, I'd like to ask that Board continue that on
6 the same basis, till April if it's worked out, to May if it's
7 not and it's contested and I will tell you now that we've got
8 another unit or two I want to do that with. But we...we have
9 scheduled a meeting for early April...very early April
10 between the people in authority at ERECs and Consol to try
11 and work out some issues. We're on opposite sides on some
12 these units and to try and just resolve that, I'll go over
13 all bases. If we're able to do that before the next hearing,
14 then these will go a lot smoother. If we're not, you know,
15 we'll have at it in May. And so that's why we're talking
16 about...you know, we've requested that kind of continuance
17 for item three.

18 The same thing would apply to item eighteen, which
19 is B-31. Buchanan Production is seeking to pool that unit.
20 ERECs has a lease in that unit. Mr. Johnson is here on
21 behalf of some lessors in that unit. We do have some notice
22 issues on that. So, we need to continue that anyway to
23 straighten out notice and some title questions. But this

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1 April meeting would apply to that as well. The complicating
2 factor here is that Mr. Johnson who is very difficult to deal
3 with. So, I'm not as optimistic with regard to number
4 eighteen.

5 DON JOHNSON: I've never agreed with Mark.

6 MARK SWARTZ: But, you know, if we can work
7 something out on that one, it would be April; and if not and
8 we have to litigate, you know, we would ask for May on that
9 one. So, those...those three---.

10 DON JOHNSON: We're going to help them all we can,
11 Mr. Wampler. We'd like to go on the record, also.

12 MARK SWARTZ: And I know that that is his intention
13 and desire. Then item number eight does not involve Mr.
14 Johnson or Mr. Kiser, but we would ask on behalf of Buchanan,
15 or Pocahontas Gas Partnership, that you continue that. We
16 have some notice questions there. We've picked up some
17 additional people that we haven't noticed on our due
18 diligence and we need to notice again; and that one
19 definitely just till April. You know, we'll get the notice
20 squared away and we'd like to come in April if we could.

21 That's the housekeeping, you know, unless...and I
22 need to alert you also, although we're probably going to have
23 to call these cases, items four through seven are

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1 disbursement issues. Anita is here this morning. We've got
2 spreadsheets. We have run all of the checks that we've got.
3 We do not have information back from the bank that allows us
4 to balance. So, we don't have...and our balances do not
5 agree to the extent....we have a bank balance from the bank,
6 but they don't agree. So, we don't have the...we don't have
7 the detailed information back from the bank. We were
8 optimistic we might even get it as of Friday, but we just
9 don't. So, we cannot...you know, we could share with you on
10 those four what we believe we have paid in. We have all of
11 those spreadsheets with us and so forth, but we can't do the
12 accounting because we don't have the information from the
13 bank. So, those are going to have to...I think have to be
14 continued. But---

15 BENNY WAMPLER: Do you have any information on that,
16 Mr. Wilson?

17 MARK SWARTZ: I mean, if you want us to give you
18 what we've got---

19 BENNY WAMPLER: I don't see the point in it because
20 you have to repeat it all when we have the hearing any...you
21 know, when we do get into disbursement because it's hard to
22 retain.

23 DENNIS GARBIS: Get it all accurate and get right.

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1 BENNY WAMPLER: Yeah.

2 MASON BRENT: Is this an indication of continuing
3 problems with the bank?

4 MARK SWARTZ: I don't---.

5 BENNY WAMPLER: That's what I was going to ask, Mr.
6 Wilson.

7 MARK SWARTZ: I don't think so. I mean, they're
8 slow sometimes, but I don't...they're not a problem.

9 BOB WILSON: We...yeah, excuse me.

10 MARK SWARTZ: I'm sorry.

11 BOB WILSON: We had a specific problem on this one.
12 It involved the creation sometime back of a separate account
13 for part of this money due to a VGOB number either coming in
14 incorrectly or being recorded incorrectly at the bank and
15 those two accounts, the one that was opened in error and the
16 one that is the actual account, needed to be combined so that
17 they could bring all of those balances forward. I had talked
18 to the bank Friday morning and, as we were saying, we were
19 hoping that they would have...would be back to us on that.
20 But right now, I don't see this as any indication of ongoing
21 problems. I think things have actually gone fairly smoothly.
22 We still have some communication problems from time to time,
23 but we have means of addressing them now.

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1 MARK SWARTZ: There were two units where that
2 happened actually and, you know, they may balance, but there
3 was an account that was set up in error with two of these
4 that there's money in. So, we're showing it's short and we
5 don't have the information on the other account. So, we just
6 can't even begin to balance and I agree with you. I mean, we
7 just need to---.

8 SANDRA RIGGS: Were those accounts established prior
9 to this escrow agent taking over and then transfer it over?

10 MARK SWARTZ: That's another problem.

11 (Mark Swartz confers with Leslie Arrington and
12 Anita.)

13 BOB WILSON: I haven't gone back to look and see
14 exactly when this particular error happened. I know we've
15 corrected several of those back sometime ago after the
16 transition and this is something that I think we can handle
17 administratively because we know where the error is. But as
18 to who ended it that way, I don't know. We have established
19 a situation now with the escrow agent that anytime they get
20 any document in without a VGOB number, or with a VGOB number
21 that they don't recognize or have an order to go with, then
22 that document is to be returned. This obviously occurred
23 before that happened and somehow or another, an erroneous

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1 account was opened, or accounts actually.

2 BENNY WAMPLER: Okay, on the Board's agenda then, is
3 there any objection to continuing items three, four, five,
4 six, seven, eight and eighteen?

5 (No audible response.)

6 BENNY WAMPLER: Without objection, those are
7 continued.

8 MARK SWARTZ: The only other housekeeping, Mr.
9 Rasnake and I and Les Arrington have had a pretty productive
10 discussions this morning with regard to some difficulties
11 that he has had with Consol and Les and I, and he has
12 tendered some objections previously with regard number eight
13 that you just continued. He has also tendered some
14 objections on item sixteen and rather than to have
15 him...force him to hang around the rest of the day, because I
16 think we're reached some closure, he wanted to speak to you
17 for a moment with regard to those two units and I would like
18 to accommodate him, particularly the one you've just
19 continued unless you have a problem with that because he's
20 going to be back on D-24. I thought...can you just do that
21 and let him go on his way?

22 BENNY WAMPLER: Huh---.

23 MASON BRENT: How can he speak to---?
24

1 BENNY WAMPLER: I don't have any problem with
2 sixteen, but I don't see how we can continue it...speak to
3 one we've just continued.

4 MARK SWARTZ: He's just withdrawing his objection
5 for the record so the next time he's here he---.

6 BENNY WAMPLER: Okay, we'll allow that.

7 MARK SWARTZ: Okay. James, I'll get out of your
8 way.

9 SANDRA RIGGS: You need to reopen that docket,
10 Benny.

11 BENNY WAMPLER: Okay. That's what I'm going to do.
12 I'm going to go ahead and reopen this...ever...we continued
13 everything...I'm going to reopen number eight. That is
14 docket number VGOB-01-03/20-0870; and we'd ask the parties
15 that wish to address the Board in this matter to come forward
16 at this time. We have a request for a continuance. We
17 continued it. I've reopened it.

18 JAMES RASNAKE: Right.

19 BENNY WAMPLER: State your name for the record,
20 please.

21 JAMES RASNAKE: My name is James Rasnake. I'm an
22 interest owner in unit AV-110.

23 BENNY WAMPLER: Okay.

24

1 BOB WILSON: Mr. Chairman, Mr. Rasnake had filed a
2 letter with the Division of Gas and Oil addressed to the Gas
3 and Oil Division earlier on this same unit and I'll pass out
4 to the Board at this time, too.

5 BENNY WAMPLER: Okay. Is it helpful to you to go
6 ahead and call the docket on number sixteen as well, Mr.
7 Rasnake?

8 JAMES RASNAKE: Yes, that would be fine because what
9 I've got to say---.

10 BENNY WAMPLER: Are your statements applying to both
11 of those?

12 JAMES RASNAKE: Exactly.

13 BENNY WAMPLER: All right. Then I'll go ahead and
14 call the item sixteen as well to allow...for the purpose of
15 allowing you to make those statements. We'll recall it, I
16 assume, later because I do not have a request for a
17 continuance of that. Anyway, the Board will consider a
18 petition from Pocahontas Gas Partnership for pooling of
19 coalbed methane unit identified as DD-24. This is docket
20 number VGOB-01-03/20-0878. Again, I've reopened item number
21 eight. I'm opening number sixteen, both of those for the
22 purpose of hearing Mr. Rasnake. You may proceed.

23 JAMES RASNAKE: Mr. Chairman, in regard to the
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1 matters in which I've recently been involved, I wish to take
2 this opportunity to publicly apologize to the Board and the
3 Division of Gas and Oil for the manner in which I conducted
4 myself while attempting to protect the best interest of my
5 property. In particular, I need to apologize to Consol and
6 especially to Les Arrington and Claude Morgan. And with this
7 said, I wish to withdraw my objections from both units AV-
8 110, that's item eight on today's agenda and DD-24, that's
9 item number sixteen on today's agenda.

10 BENNY WAMPLER: Questions from members of the Board?

11 (No audible response.)

12 BENNY WAMPLER: Are you making these statements of
13 your own free will and accord and you're under no duress in
14 making those statements?

15 JAMES RASNAKE: It's time for me to put this behind
16 me and move on.

17 BENNY WAMPLER: Okay. All right. Thank you. The
18 next item on the agenda...let me just say we're going ahead
19 and continuing again item number eight. That was just for
20 the purpose of those statements. We're going to item number
21 nine. The Gas and Oil Board will consider a petition from
22 Pocahontas Gas Partnership for pooling of a coalbed methane
23 unit under Middle Ridge I Coalbed Methane Gas Field Order and
24

1 identified as AW-111. This is docket number VGOB-01-03/20-
2 0871. We'd ask the parties that wish to address the Board in
3 this matter to come forward at this time. This is the new
4 unit that we created.

5 MASON BRENT: We recontinued number eight.

6 BENNY WAMPLER: Yes.

7 MASON BRENT: What about sixteen.

8 MARK SWARTZ: No, we're not going to continue that.

9 BENNY WAMPLER: We didn't have a request to continue
10 it. I just went ahead and called it. It's still...that was
11 for the purpose of allowing him to make his statement as it
12 applied so he could leave. Okay, we will...it's still on
13 today's agenda.

14 MASON BRENT: I thought maybe we'd just go on with
15 it right now.

16 BENNY WAMPLER: Do you want to go ahead with
17 sixteen?

18 MARK SWARTZ: The large group of people that were
19 here, Jim's talking to them. I'm going to get them back in.

20 BENNY WAMPLER: Just one second.

21 MARK SWARTZ: Just for a moment.

22 BENNY WAMPLER: Just one second before you do that.

23 MARK SWARTZ: Okay.

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1 BENNY WAMPLER: Item sixteen. He brings up a good
2 point. Are we now...are you able to dispense with that or do
3 you still need to go forward?
4 MARK SWARTZ: I need to go forward and have a
5 hearing on that.
6 BENNY WAMPLER: Okay.
7 MARK SWARTZ: If you want me to get Les back in here
8 to do that now, I could.
9 MASON BRENT: It's open.
10 MARK SWARTZ: Yeah.
11 BENNY WAMPLER: We've opened it.
12 MARK SWARTZ: Right.
13 BENNY WAMPLER: We can do that.
14 MARK SWARTZ: Well taken. Let me...let me grab him.
15 BENNY WAMPLER: And that will give them a little
16 more time.
17 MARK SWARTZ: And the folks that they're talking to
18 are not involved in that unit.
19 BENNY WAMPLER: Okay. That's a good point.
20 (Off record until Mr. Swartz and Mr. Arrington
21 return to the meeting.)
22 MARK SWARTZ: We can do DD-24 now.
23 BENNY WAMPLER: Number sixteen on the docket.
24

1 MARK SWARTZ: Right.

2 LESLIE ARRINGTON: Hopefully most of the group is
3 satisfied.

4 BENNY WAMPLER: It just takes one, Les.

5 MARK SWARTZ: Yeah, but one is better than twenty.
6 But I'm just a (inaudible). Mark Swart and Les Arrington,
7 appearing with regard to unit DD-24 on behalf of Pocahontas
8 Gas Partnership. Could you swear the witness for me, please?

9 (WITNESS IS DULY SWORN.)

10 (Anita distributes exhibits.)

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LESLIE ARRINGTON

having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Les, could you state your full name for us, please?

A. Leslie K. Arrington.

Q. Who do you work for?

A. Consol Energy.

Q. Who is the applicant in this case?

A. Pocahontas Gas Partnership.

Q. And is Pocahontas Gas Partnership a Virginia General Partnership?

A. Yes, it is.

Q. Does it have two partners, one of whom is Consolidation Coal Company and the other of whom is Conoco, Inc.?

A. Yes. Yes, it is.

Q. In this application, who are you asking be appointed as the designated operator?

A. Pocahontas Gas Partnership.

Q. And is Pocahontas Gas Partnership---?

1 (A member from the audience comes up to Mark Swartz
2 and asks him something privately.)

3 Q. Is Pocahontas Gas Partnership authorized to
4 do business in the Commonwealth?

5 A. Yes, it is.

6 Q. Has it registered with the Department of
7 Mines, Minerals and Energy and does it have a blanket bond on
8 file?

9 A. Yes, it does.

10 Q. Okay. With regard to DD-24, have you named
11 all of the respondents that you're seeking to pool in the
12 Notice of Hearing---?

13 A. We have.

14 Q. ---and also at Exhibit B-3 to the
15 application?

16 A. That's correct.

17 Q. And in Exhibit B-3, in the last column, have
18 you listed the percentages that each of the respondents has a
19 claim to in the unit?

20 A. Yes, we have.

21 Q. Okay. Do you wish to add any people as
22 respondents today?

23 A. No.

24

--

1 Q. Do you wish to dismiss anybody?

2 A. No.

3 Q. Okay. Have you...tell the Board what you
4 did with regard to mailing the statutory notice with regard
5 to this unit?

6 A. Yes. We mailed...mailed on February the
7 16th, 2001 by Certified Mail/Return Receipt.

8 Q. And that would have been to everybody that
9 you had an address for?

10 A. That's correct.

11 Q. And to the extent that you didn't have
12 addresses, that's stated in Exhibit B-3 and the Board could
13 tell...or in the Certificate of Notice and the Board could
14 tell the people from whom you did not have addresses,
15 correct?

16 A. That's correct.

17 Q. Okay. And in addition to the mailing as set
18 forth in the Certification and Notice and in the Affidavit,
19 did you also publish?

20 A. Yes, we did. We published in the Bluefield
21 Daily Telegraph on February the 21st of 2001.

22 Q. And when you published in the Telegraph,
23 what was it that got published in the newspaper?

24

1 A. The actual Notice of Hearing and a location
2 map.

3 Q. Okay. And the location map is the State of
4 Virginia with item...with an area highlighted and then part
5 of the grid with the unit highlighted?

6 A. Yes.

7 Q. Okay. And these...this...this unit is
8 a...is in what field?

9 A. It's in the Oakwood Field.

10 Q. Okay. And it's unit DD-24 in the Oakwood
11 Field, so it would be an 80 acre unit?

12 A. It is.

13 Q. Okay. Okay, let's go through the
14 application here, kind of looking through it, and first let
15 me draw your attention to the plat. How many wells are
16 proposed for this unit?

17 A. One.

18 Q. And is it in the drilling window?

19 A. Yes, it is.

20 Q. Okay. And what is the well number or
21 identification?

22 A. DD-24.

23 Q. So, it's PGP dash---?

24

1 A. Yeah, I'm sorry. Yes. Uh-huh.

2 Q. Okay. And is that well drilled?

3 A. No, it is not.

4 Q. Okay. Have you included in the application

5 an estimate with regard to the cost of drilling that well?

6 A. Yes, we have.

7 Q. And your estimated cost is in what amount?

8 A. \$201,849.83, to a total depth of 2,230 feet.

9 Q. And would that include completion,

10 fracturing and stimulation and so forth?

11 A. It will.

12 Q. Okay. And is that at this point your best

13 estimate as to what that well completed for production will

14 actually cost?

15 A. It is.

16 Q. And that would be a frac well, obviously?

17 A. It is.

18 Q. And is this...are you seeking to pool this

19 unit as a frac unit?

20 A. Yes, we are.

21 Q. And as we noted earlier, on the plat here,

22 it says it's an 80 acre Oakwood Unit. The horizons that you

23 would be seeking to produce from would be from the Tiller on

24

1 down then, is that correct?

2 A. All seams below the Tiller down through the
3 red and green shells.

4 Q. Okay. The status of leasing efforts and so
5 forth. If we look at Exhibit A, page two, would you tell the
6 Board what you've been able to lease and what you need to
7 pool?

8 A. Yes. We've leased from the coal owner 100%
9 of the coalbed methane interest. And from the oil and gas
10 owners, we've leased 92.3363%. We're seeking to pool
11 7.66637% of the coalbed methane interest from the oil and gas
12 owners. And we lease 100% of the coal below this unit.

13 Q. The terms...would you tell the Board what
14 terms you have offered in general to the folks that you've
15 been able to obtain leases from?

16 A. Yes. Our...our standard terms are a 1/8
17 royalty, a \$1 per acre per year for a coalbed methane lease
18 with a five year paid...paid term.

19 Q. And once the well starts producing, does the
20 rental cease?

21 A. Yes, it does.

22 Q. And would you recommend those terms to the
23 Board with regard to the issue of deemed to have been leased

24

1 in the event that they are under pooling orders?

2 A. Yes, we would.

3 Q. Is it your opinion that the plan of
4 development as proposed in this application and the
5 accompanying exhibits is a reasonable plan to develop the
6 coalbed methane resource under unit DD-24?

7 A. Yes, it is.

8 Q. Is it your recommendation to the Board that
9 this pooling application be approved because if approved, it
10 would protect all of the owners of correlative rights or
11 claimants of correlative rights within the unit?

12 A. Yes, it is.

13 Q. That's all I have.

14 BENNY WAMPLER: Would you go into some detail about
15 your due diligence with Laura Boyd...L. Boyd heirs?

16 LESLIE ARRINGTON: Yes, sir. That's...we have
17 continued to...we continue to try to find additional peoples
18 and as you can see, we do have several addresses unknown. We
19 do our title research. It had been brought to our attention
20 that we...we had not located everyone and we did go...our
21 title attorney did go to the courthouse and that immediate
22 Will that was referenced was not of record leaving a gap
23 there; and we were provided with this list and we have not
24

1 been able to come up with additional addresses and hopefully
2 this is the list of names.

3 MARK SWARTZ: Well, I would like to contribute a
4 little bit and answer that question as well. The...there is
5 no Laura Boyd Will of record in Buchanan County, period. So,
6 the Laura Boyd heirs have only been able to be identified
7 inferentially from talking to people and so forth. The...you
8 know, contrary to anything that the Board has ever been told
9 about the...that Will is not of record period in Buchanan
10 County. And nor is there any Chancery action, or activity in
11 Chancery Court, with regard to an estate regarding Laura
12 Boyd, period. So, there was nothing of record when we did
13 our title work to cause us to be able to locate her heirs,
14 which is why, you know, initially not in this unit, because
15 we've obviously got a list here of people that we've noticed,
16 and the sources of the list of heirs that we're including
17 have essentially been verbal, talking to descendants and
18 trying to put the Estate together and kind of working back in
19 time. But we still are not done with that. And as you can
20 tell from the Exhibits, we're not done with it to the extent
21 that we can't quantify their interest. We just know that
22 they have...at least from word of mouth from interviewing
23 family members, that they have a claim.

24

--

1 So, you know, the problem that we've had
2 historically and continue to have is that the family just
3 never opened an Estate, recorded a Will, you know, got a
4 Chancery Order and so if you look in Buchanan County of
5 record, you don't find this. I mean, the Will that Mr.
6 Rasnake brought to our attention is the M. R. Boyd Will and
7 doesn't indicate any relationship to Laura Boyd. So, I mean,
8 you've got to make quite a leap there and we're not sure that
9 there is a relationship of that Will to her Estate. But
10 that...from a due diligence standpoint, that's what's of
11 record and that...and there's nothing and that the list that
12 we've come up with is essentially through talking to people
13 in the courthouse. We found some relatives with the help of
14 Mr. Rasnake.

15 LESLIE ARRINGTON: That's right.

16 MARK SWARTZ: I don't know if that---.

17 LESLIE ARRINGTON: We'll continue to follow that
18 lead up

19 BENNY WAMPLER: Any other questions from members of
20 the Board?

21 (No audible response.)

22 BENNY WAMPLER: Do you have anything further?

23 MARK SWARTZ: Not on this unit.

24

--

1 MASON BRENT: I'm glad to see there's an agreement
2 on the unleased percentages.

3 MARK SWARTZ: I'm sorry. I'm a little hard of
4 hearing.

5 MASON BRENT: I said I'm glad to see there's an
6 agreement on the unleased percentages.

7 MARK SWARTZ: Yeah, right.

8 BENNY WAMPLER: Carried over from the last time. Is
9 there a motion for approval?

10 MAX LEWIS: I make a motion we approve it as
11 presented.

12 MASON BRENT: Second.

13 BENNY WAMPLER: Second. Any further discussion?
14 (No audible response.)

15 BENNY WAMPLER: All in favor, signify by saying yes.
16 (All members signify yes.)

17 BENNY WAMPLER: Opposed, say no.
18 (No audible response.)

19 BENNY WAMPLER: You have approval.

20 MARK SWARTZ: Thank you.

21 BENNY WAMPLER: We'll go back to number nine. Okay,
22 the next item on the agenda is a petition from Pocahontas Gas
23 Partnership for pooling of a coalbed methane unit under the
24

1 Middle Ridge I Coalbed Methane Gas Field Order identified as
2 AW-111, docket number VGOB-01-03/20-0871. We'd ask the
3 parties that wish to address the Board in this matter to come
4 forward at this time.

5 MARK SWARTZ: Mark Swartz and Les Arrington on
6 behalf of Pocahontas Gas Partnership.

7 (Mark Swartz and Leslie Arrington confer.)

8 MARK SWARTZ: Mr. Chairman, I would...I would ask
9 that the Board consider combining for hearing the item you
10 just called, number nine, through fifteen. They're all in
11 the new Field. And what I would propose to do is do the
12 testimony that pertains to all of them one time and then
13 literally take each application and walk through it. We've
14 got quite a few people here that are, I believe, from the
15 Brown Heirs's side of the equation and I certainly want
16 to...and we've been speaking and talking to them, you know,
17 in the time that we had this morning. But I certainly want
18 to take the time to sort of walk through the title so that
19 they are able to follow it. And so I would only offer, you
20 know, the collective testimony as to who the operator is,
21 who's the applicant and that sort of thing and then walk
22 through each one of these. But I think it would save us a
23 significant amount of time and we'd ask that you consider
24

1 doing that.

2 BENNY WAMPLER: Any objection to them doing that
3 from members of the Board?

4 MASON BRENT: I don't object, but I would just like
5 to say for future reference that combining these things I
6 think is okay and saves time, but if we try to combine too
7 many---.

8 BENNY WAMPLER: Right.

9 MASON BRENT: ---personally it's hard for me to
10 keep up with each individual one if we're combining too many.
11 But since you are going to be specific to each of these---.

12 MARK SWARTZ: Well, and the other thing you'll see
13 here, there is a title issue that will repeat itself. It's
14 not in the first one. But that...so, they look pretty
15 familiar from a title standpoint after a while. These
16 actually makes...although there are a bunch of them, there's
17 actually a good reason to put these together other than just
18 moving it along. But I hear you. I understand.

19 BENNY WAMPLER: Okay, I go ahead call unit AX-110,
20 that's docket number VGOB-01/03/20-0872; and unit AX-111,
21 docket number VGOB-01/03/20-08723. Is that a mistake?

22 BOB WILSON: Yes.

23 BENNY WAMPLER: Is it 0872?
24
--

1 BOB WILSON: It should be 873.

2 BENNY WAMPLER: 73?

3 BOB WILSON: Yes, sir.

4 MAX LEWIS: 0873.

5 BENNY WAMPLER: Unit AX-113, docket number VGOB-
6 01/03/20-0874; unit AY-110, docket number VGOB-01/03/20-0875;
7 unit AY-111, docket number VGOB-01/03/20-0876; and unit AY-
8 112, docket number VGOB-01/03/20-0877. We'd ask the parties
9 that wish to address the Board in these matters to come
10 forward at this time.

11 MARK SWARTZ: Mark Swartz and Les Arrington on
12 behalf of Pocahontas.

13 BENNY WAMPLER: Les, you've been previously sworn.
14 There's no others. You may proceed.

15

16 LESLIE ARRINGTON
17 having been duly sworn, was examined and testified as
18 follows:

19 DIRECT EXAMINATION

20 QUESTIONS BY MR. SWARTZ:

21 Q. You need to state your name for us, again?

22 A. Leslie K. Arrington.

23 Q. Who is the applicant on all of these

24

1 applications?

2 A. Pocahontas Gas Partnership.

3 Q. Each application has a Notice of Hearing, an

4 application and related exhibits, correct?

5 A. Yes, it does.

6 Q. Did you sign the Notices and the

7 applications?

8 A. Yes, I did.

9 Q. Were they either prepared by you or under

10 your direction?

11 A. Yes, they were.

12 Q. Have we...have we filed a number of revised

13 exhibits with the Board today---?

14 A. Yes, we---.

15 Q. ---with regard to these units?

16 A. ---have.

17 Q. Okay. And is that part of that the result

18 of leasing that you've been able to do between the time you

19 filed these applications and today?

20 A. It is.

21 Q. And part of it is also due diligence?

22 A. Correct.

23 Q. And we'll go through those one at a time as

24

1 we get to them, but there are a number of...and we'll try to
2 alert you in advance to the revisions so you're not looking
3 through the wrong exhibit when we go through these units.
4 But there are a number of (inaudible), correct?

5 A. It is.

6 Q. Okay. In each of these cases, is the
7 applicant Pocahontas Gas Partnership?

8 A. Yes, it is.

9 Q. And in each of these cases, is there a
10 request that Pocahontas Gas Partnership be designated as the
11 operator of the unit if it's pooled?

12 A. Yes, it is.

13 Q. Is Pocahontas Gas Partnership a Virginia
14 General Partnership?

15 A. Yes, it is.

16 Q. Does it have two partners that are
17 Consolidation Coal Company and Conoco, Inc.?

18 A. Yes, it is.

19 Q. Is Pocahontas Gas Partnership authorized to
20 do business in the Commonwealth of Virginia, has it
21 registered with the Department of Mines, Minerals and Energy
22 and does it have a blanket bond on file?

23 A. Yes, it does.

24

--

1 Q. Now, the respondents in each of these units
2 are listed, are they not, in the Notice of Hearing and in the
3 Exhibits B-3?

4 A. Yes, they are.

5 Q. Okay. And there will be instances as we
6 work through these where we want to dismiss people and we
7 want to add people and we're going to do that on a unit by
8 unit basis?

9 A. We are.

10 Q. But there will be...there will be some of
11 that as we go through this?

12 A. Correct.

13 Q. And there...in the event that there is a
14 addition or a subtraction, have you prepared an Exhibit that
15 you have identified as Exhibit B-2?

16 A. We have.

17 Q. Okay. And that will list the folks to be
18 added or subtracted and give a reason?

19 A. That's correct. It does.

20 Q. Okay. Were there publications made with
21 regard to each of these docket items?

22 A. It was.

23 Q. Okay. And what newspaper did everyone of
24

1 those notices get published?

2 A. They were all published in the Bluefield
3 Daily Telegraph.

4 Q. Were they published different days, Les?

5 A. They may have been. I'm not sure.

6 Q. All right. Did you file today with the
7 Board in the packet of exhibits that Anita has handed out, a
8 Certificate of Publication for every unit that shows the date
9 on which it was published?

10 A. Yes, we have.

11 BENNY WAMPLER: Mark, excuse me one second. I only
12 have one. Was there suppose to be other exhibits passed out?

13 MARK SWARTZ: You need to---.

14 LESLIE ARRINGTON: For the other units.

15 BENNY WAMPLER: Yes.

16 LESLIE ARRINGTON: I thought since we were going to
17 go through the---.

18 MARK SWARTZ: One at a time.

19 LESLIE ARRINGTON: ---...for each one so it won't
20 get so confusing.

21 BENNY WAMPLER: I just wanted to make sure for the
22 Board that---.

23 LESLIE ARRINGTON: Yes.

24

1 BENNY WAMPLER: ---you recognize that we don't have
2 the packet of exhibits yet.

3 LESLIE ARRINGTON: That's correct.

4 MARK SWARTZ: You're going to be getting six more,
5 but we're going to do them one at the time for the very
6 reason that Mr.---.

7 MASON BRENT: Brent.

8 MARK SWARTZ: ---Brent...you should not use...people
9 shouldn't be allowed to have last names that could work as a
10 first name. But in event---.

11 MASON BRENT: Take it up with my mother.

12 MARK SWARTZ: Yeah, I know. If she's like mine, I
13 don't want to take it up with her.

14 Q. Okay. With regard to this particular unit
15 that we're starting with here, AW-111---?

16 A. Yes.

17 Q. ---when was that published?

18 A. February the 21st of 2001.

19 Q. Okay. And when you published, what was it
20 that appeared in a newspaper for people to review?

21 A. It was our Notice of Hearing and map.

22 Q. And the little map?

23 A. Yes.

24

1 Q. Okay. Have you also, with regard to this
2 first unit AW-111, filed with the Board the
3 certificates...the Certificate of Mailing and the return
4 receipts and so forth?

5 A. We have.

6 Q. With regard to AW-111, is the only revised
7 exhibit that we're tendering today A, page two?

8 A. Yes, it is.

9 MARK SWARTZ: Okay. I want to bring...although
10 Les and I really try, we have made another mistake. In all
11 of the plats in the Middle Ridge units that we're talking
12 about are identified as Oakwood Field unit whatever. The
13 Notice of Hearing, the application, you got your docket sheet
14 right, everybody knows this is Middle Ridge except the
15 surveyor didn't change his program. So, we're going to have
16 to file showing everyone of these, and this one is an
17 example, the Middle Ridge I. I mean, the maps are right, the
18 grids are right, but we just identified it wrong on the plat.
19 I wanted to bring that to your attention.

20 As long as we're looking at the plat, Les, in this
21 unit AW-111, how many wells are you proposing?

22 A. One.

23 Q. Is it in the drilling window?

24

--

1 A. Yes, it is.

2 Q. Now, these Middle Ridge units, you've
3 identified the acreage here that we're talking about on the
4 plat?

5 A. We have. It's 58.7.

6 Q. Okay. And the...and that's typically the
7 size of the unit in the Middle Ridge?

8 A. It is.

9 Q. Now, in the Middle Ridge, in some instances,
10 the pooling, or Field Rules, allows you to start with Jawbone
11 I, correct?

12 A. It does.

13 Q. Do you know if that's in play here or where
14 your...if you're starting below that on this unit, if you
15 know?

16 A. I don't know on this unit.

17 Q. Okay. So, in any event when this...when
18 this unit is produced, it would be from the Jawbone I on down
19 if the Jawbone I is, in effect, below drainage?

20 A. That's correct.

21 Q. The...with regard to this unit, there is a
22 revised Exhibit A, page two, that you've given to the Board
23 today and I would ask you to tell us what the situation is
24

1 with regard to leased and unleased interest?

2 A. Yes. In this unit, we have 100% of the
3 coalbed methane interest leased from the coal owner. And
4 93.37% of the oil and gas/coalbed methane interest leased.
5 We're seeking to pool 6.63 of the oil and gas/coalbed methane
6 interest. And below this unit, we've leased 100% of the
7 coal.

8 Q. And have you submitted with this unit, at
9 least at this point, notice to the Board that some of
10 the...strike that. Notice to the Board that we anticipate
11 that there will be a need to escrow?

12 A. That's correct, I have.

13 Q. And Exhibit E outlines or flushes out the
14 folks that you're going to need to escrow?

15 A. That's correct.

16 Q. And then we've got an Exhibit EE which does
17 what?

18 A. There's a royalty split within this unit
19 between Hugh McCrae and Pocahontas Gas Partnership.

20 Q. So some of the folks that would otherwise
21 require escrow have entered into an agreement allowing the
22 monies to be disbursed and this is notice to the Board of
23 that agreement between Hugh McCrae Land Trust and Pocahontas

24

1 Gas Partnership?

2 A. That's correct.

3 Q. Okay. Just stop for a moment because this
4 is...we're going to continue to see this as we work through
5 these units. If you could look at Exhibit E, if you've got
6 that handy. There are some serious title issues in this
7 collection of units. Right, Les?

8 A. It is.

9 Q. If you could in a nutshell, we don't want to
10 wear them out and they can ask more questions, but in a
11 nutshell, what's the problem that accounts for the identify
12 one owner and then put an or and then put another
13 identification and or. If you could explain that.

14 A. Sometime, I'll call it near 1920, there was
15 a person out had gotten a contract to sell property although
16 he didn't have a deed. He was selling property before he got
17 the deed. By the time it all flushed out, he really wasn't
18 able to sell that property and that's the reason...we can't
19 determine who owns that property. It's either the person he
20 sold it to or the person that really owned it before him.
21 You know, we can't do that.

22 Q. So there are poten...there's a cloud on
23 title---?

24

--

1 A. There is.

2 Q. ---that prevents you from assessing record
3 title with a level or comfort to say this person has the
4 right to title or that person?

5 A. We can bring both chains forward but we
6 can't say, you know, who owns it. That's...we don't do that.

7 BENNY WAMPLER: Both of these are potential owners
8 though?

9 LESLIE ARRINGTON: They are. In this case, if you
10 notice, I show a Earl Whited/or and on Tract 1, or position
11 number 1, we have a lease with Earl Whited. And then if you
12 look at number two, you see Earl Whited and Gante
13 Enterprises. We have a lease with both of those parties.

14 BENNY WAMPLER: And neither party is able to
15 reconcile who owns it---?

16 LESLIE ARRINGTON: No.

17 BENNY WAMPLER: ---and the ones where you do know
18 who they are?

19 LESLIE ARRINGTON: Not without some sort of Court
20 action. We're not going to be able to determine who owns
21 that.

22 MARK SWARTZ: And to further complicate matters,
23 because you'll continue to see there...you know, we have
24

1 leases...as we work through this, we have leases from Earl
2 Whited and we have a lease from Gante Enterprises. Then we
3 have...it's this heirship doctor, Dr. Harrison, which will
4 continue to appear as we work through these units and then
5 the Brown Heirs also show up in this same problem area.

6 LESLIE ARRINGTON: You're going to see numerous
7 types of this throughout this little area. We knew we had
8 this title problem and it's just something that somebody
9 needs to take to Court. You know, we don't---.

10 MARK SWARTZ: And essentially what caused it is
11 you've got two chains of title for the same property because
12 this agent was out making deeds before he had title to the
13 property. I mean, that's---.

14 LESLIE ARRINGTON: That's correct.

15 MARK SWARTZ: ---in a nutshell.

16 LESLIE ARRINGTON: That's correct.

17 MARK SWARTZ: And that's the problem. And so
18 we've...you know, we've tried to lease these people
19 regardless, you know, the outcome and are going to continue
20 to do that. But that's the difficulty here that's generating
21 these orders. Now, this is the escrow exhibit, Exhibit E,
22 and if you look at B-3 just to kind of illustrate what I'm
23 talking about. In this particular unit, and I'm speaking of
24

1 AW-111, the only one of the ors that you've just been looking
2 at on Exhibit 3, which is the escrow exhibit that we don't
3 have a lease from, is Dr. Harrison's estate. You know, we're
4 going to continue to try run those people down, but at this
5 point, we don't know who they are. So, I just felt like that
6 might give you a heads up as to what you're going to continue
7 to see as we work through these.

8 LESLIE ARRINGTON: That list, you'll notice in some
9 of the other units, will get bigger, much larger.

10 MARK SWARTZ: And the other thing you need...Les,
11 are there instances where Mr. Whited actually has record
12 title without interference by a parallel chain?

13 LESLIE ARRINGTON: That's correct, he does.

14 MARK SWARTZ: So, there will some instances where,
15 you know, we're comfortable he has got record title and then
16 others that we're not. So, each of these are going to be
17 different, which is why we're going to walk through each of
18 them.

19 Q. Mr. Arrington, with regard to this unit, and
20 we've talked for a moment about, you know, how much acreage
21 is outstanding and obviously, we're just seeking to pool
22 6.63% of the oil and gas interest. Would you tell the Board
23 with regard to this unit AW-111, and in general with regard
24

1 to the other units, what the terms are that you've been
2 offering to folks to lease them, that you've been able to
3 lease?

4 A. Yes. Our standard terms are, again, a 1/8
5 royalty, a \$1 per acre per year for a coalbed methane lease,
6 with a five year paid up term.

7 Q. And would those be the terms that you would
8 recommend the Board...recommend to the Board to be inserted
9 in any pooling order with regard to deemed to have leased
10 status?

11 A. Yes, it is.

12 Q. In each one of these poolings, are you
13 talking about one well?

14 A. Yes, we are.

15 Q. A frac well?

16 A. Yes.

17 Q. In a 58.7 acre Middle Ridge unit?

18 A. I'm not sure. Some of these may be the make
19 up unit in between it and Oakwood. I can't....we'll look at
20 them individually.

21 Q. Well, let's look at the plats. We'll look
22 at the plats. But, in each instance, it will be from the
23 Jawbone No. 1 on down, if the Jawbone is below drainage?

24

--

1 A. That's correct.

2 Q. In each instance, is the one well that's
3 proposed for these units a frac well?

4 A. Yes, it is.

5 Q. In each instance, is that one well located
6 in the drilling window?

7 A. It is.

8 Q. So, we're not going to need any exceptions?

9 A. No.

10 Q. With regard to these...before we move on to
11 the next unit, if there are any questions with regard to the
12 exhibits here. With regard to these units collectively, is
13 it your opinion that the proposal to put one frac well in the
14 drilling window in each of these units is a reasonable plan
15 to develop coalbed methane under each of these units?

16 A. Yes.

17 Q. And through your due diligence in leasing,
18 have you sought to bring everyone either to lease or before
19 the Board who has a claim or correlative rights in these
20 units so that their interests are protected?

21 A. Yes, we have.

22 MARK SWARTZ: That's all I have. I am now going to
23 move to the next one.

24

1 BENNY WAMPLER: Well, before we do, on this unit,
2 tract three is where you're locating your well. What do you
3 rely upon for access?

4 LESLIE ARRINGTON: Okay. We actually...we purchased
5 the well site from Mr. Whited. He owns seven-eighths.

6 BENNY WAMPLER: He owns the surface. Okay. Any
7 questions from members of the Board for this witness?

8 CLYDE KING: I have a small question, Mr. Chairman.

9 BENNY WAMPLER: Mr. King?

10 CLYDE KING: How long has he owned it?

11 LESLIE ARRINGTON: He's actively farming. I mean,
12 he lives there. He's actively farming, has cattle on the
13 farm.

14 MARK SWARTZ: He asked you how long.

15 LESLIE ARRINGTON: How long? I can't answer that.
16 (Leslie Arrington confers with his landman.)

17 CLYDE KING: But the courthouse records show that he
18 is the owner?

19 MARK SWARTZ: Well---.

20 LESLIE ARRINGTON: Well---.

21 MARK SWARTZ: Since one of the possible owners and
22 certainly seven-eighths...no, he's a seven-eighths owner of
23 that tract.

24

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1 MASON BRENT: The...if I may?

2 BENNY WAMPLER: Yes.

3 MASON BRENT: The first Exhibit A, page two I have
4 shows that 100% of the coal and oil and gas is leased, zero
5 unleased, and then what you brought here today shows the 6.63
6 unleased. Is that just to recognize that Dr. Harrison---?

7 MARK SWARTZ: Right.

8 MASON BRENT: So, it was an oversight. You knew
9 about it?

10 MARK SWARTZ: No. I'll let Les answer.

11 LESLIE ARRINGTON: Okay. I drafted the first one
12 that you have there and if you'll notice on there, I put a
13 paragraph C on, I think it's number four. It says
14 conflicting interest, and I put that interest there because
15 in our...the way I view it, we have 100% of it leased. Well,
16 as Mark came in and reviewed it, he said, well, no, let's
17 change it and show it this way. So, it's a kind of opposing
18 view there. He wanted it.

19 MASON BRENT: So, once again, we don't know, right?

20 LESLIE ARRINGTON: But, that's the reason it was
21 shown that way.

22 MARK SWARTZ: Well, we felt like there was that...I
23 felt like there was a potential conflicting claim depending
24

1 on how title washed out and we needed to bring it to your
2 attention, which is the reason we went from 100 and zero to
3 some numbers, for the title issue reason. I mean, you can
4 look at it in a number of ways.

5 BOB WILSON: Mr. Chairman, like I say, Les and I
6 went round and round about this when these things first came
7 in and didn't come up with any real good way to put it. We
8 decided we'd put it before the Board and then see if you can
9 come up with a better way to express this particular
10 situation.

11 MARK SWARTZ: Well, the desire here is to alert you
12 to the title issue by our paperwork so you understand the
13 difficulty that we have, and maybe you can describe it
14 different ways, but we have...potentially, we have 100%
15 leased because we've got two leases where people have 100%
16 interest, but then we've got this potential other claim,
17 which we needed to bring to your attention.

18 MASON BRENT: Speaking for myself, I think the
19 second way is most appropriate.

20 MARK SWARTZ: Les brought it to my attention that I
21 forgot to ask him on this unit before we moved from this one
22 about the well cost estimate. So, if I could do that.

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LESLIE ARRINGTON

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Is this well drilled?

A. Yes, it is.

Q. What's the permit number?

A. Permit number is 4791. It was drilled on February 6th, 2001, at an approximate cost of \$206,260.18, to a total depth of 2296 feet.

Q. Would that number be completed for production?

A. It will be.

Q. And I take it, it has not been fractured yet?

A. I can't answer that.

MR. SWARTZ: That's all I would have on AW-111 unless you guys have some more questions.

BENNY WAMPLER: Any questions from members of the Board on AW-111? You may move on.

SANDRA RIGGS: I have one small question. Which of the...which claimants are the contract purchasers as opposed to which ones are in the chain, do you know?

1 LESLIE ARRINGTON: Without having my titles here in
2 front of me, I can't answer that without all the title work
3 in front of me.

4 MARK SWARTZ: We could get that to you if you want
5 us to.

6 SANDRA RIGGS: I was just curious as to whether it
7 was Whited or the others that were---.

8 LESLIE ARRINGTON: I actually think it's the
9 others, but without that information here, I can't.

10 SANDRA RIGGS: Okay.

11 (Anita distributes exhibits.)

12 CLYDE KING: Until you get it settled, you going to
13 escrow it all, are you?

14 MARK SWARTZ: You have to, right.

15 CLYDE KING: Yeah.

16 MARK SWARTZ: It's really not different than, you
17 know, when you've got a coal owner and an oil and gas owner,
18 you've just got somebody additional on one of the sides.
19 But, yeah, you have to do that.

20 You should have the additional exhibits and a
21 couple of the revised exhibits with regard to AX-110. And
22 with regard to AX-110, just as we work through these
23 exhibits, in particular with regard to this unit, be alert to
24

1 the fact that you've got a revised Exhibit A, page two and a
2 revised Exhibit E.

3

4

LESLIE ARRINGTON

5

DIRECT EXAMINATION

6 QUESTIONS BY MR. SWARTZ:

7

Q. As we work through the notice and

8

application, Les, we have the same problem here with the plat

9

and you need to substitute Middle Ridge I for Oakwood, right?

10

A. Yes.

11

Q. Because we've already talked about well

12

locations and so forth and we don't need to revisit that.

13

With regard to what you've leased and what's unleased here,

14

and what needs to be pooled, the Board should probably look

15

at revised Exhibit A, page two, which was in the stuff that

16

you handed out today, right?

17

A. Yes, it is.

18

Q. And could you tell us what the interests are

19

that we're dealing with?

20

A. Yes. We have a 100% of the coalbed methane

21

interest leased from coal owner and 78.16% from the oil and

22

gas owner. We're seeking to pool 21.84% of the oil and gas

23

owners coalbed methane interest. We have 100% of the coal

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1 leased beneath this unit.

2 Q. As long as we're with these exhibits that
3 were filed today, when was the notice published with regard
4 to this unit?

5 A. Yes. The notice was published in the
6 Bluefield Daily Telegraph on February 22nd of 2001.

7 Q. And what was published?

8 A. The notice of hearing and location map.

9 Q. There was no mailing because you don't have
10 an address?

11 A. That's right.

12 Q. Dr. Harrison's heirs?

13 A. That's correct.

14 Q. So, notice solely by publication?

15 A. That's correct.

16 Q. Again, going back to the application,
17 Exhibit B-3 shows that the fact that you've got a lease from
18 Mr. Whited, right?

19 A. Yes.

20 Q. And it shows the claim of the Harrison
21 Heirs, devisees and successors under that in regard to tracts
22 four and seven, correct?

23 A. That's correct.

24

--

1 Q. The Exhibit C, has this well been permitted?

2 A. Yes, it has. The permit number is 4792.

3 It's...I don't believe it's drilled yet. A cost of \$202,440,
4 estimated depth 2273 feet.

5 Q. And Exhibit E which you've tendered to the
6 Board, have you identified the conflicting claims that you
7 believe require escrow?

8 A. Yes, we have.

9 Q. And we've also got an escrow requirement
10 here because of a clouded title issue?

11 A. Yes.

12 Q. And because of some unknown and
13 unlocatables, specifically the heirs of Dr. Harrison?

14 A. That's correct.

15 Q. And you've tendered a revised Exhibit E that
16 deals with that as well?

17 A. Yes, we have.

18 MARK SWARTZ: I believe that's all I have
19 specifically with regard to AX-110.

20 BENNY WAMPLER: Questions from members of the
21 Board?

22 (No audible response.)

23 (Anita distributes exhibits.)

24

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1 BENNY WAMPLER: You can go to the next one.

2

3

4 LESLIE ARRINGTON

5 DIRECT EXAMINATION

6 QUESTIONS BY MR. SWARTZ:

7 Q. Now, you should have in front of you a
8 packet of additional amended exhibits with regard to AX-111.
9 Start working through the...basically, to get to the plat
10 issue in the application. Then we'll turn to the new
11 exhibits. We've got the same problem here. The plat should
12 say Middle Ridge I, correct, Les?

13 A. That's correct.

14 Q. Other than that, we've got one well in the
15 drilling window, right?

16 A. That's correct, it is.

17 Q. This well has been issued a permit?

18 A. Yes, it has, permit #4800.

19 Q. And have you done a cost estimate with
20 regard to this well?

21 A. Yes, we have. It's \$202,708.48, drilled to
22 an estimate depth of 2,284 feet.

23 Q. With regard to the items that you filed this

24

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1 morning, have you filed a certificate with regard to the
2 mailing?

3 A. Yes, we have.

4 Q. And that indicates that, to the extent you
5 had addresses, you mailed on what date?

6 A. Mailed on February 16, 2001.

7 Q. And does this...the exhibits you filed today
8 also indicate the date of publication?

9 A. Yes, it does, February 22, 2001, in the
10 Bluefield Daily Telegraph.

11 Q. And again, what was published?

12 A. The notice of hearing and attached location
13 map.

14 Q. Exhibit B-2, which is in the additional
15 packet of exhibits that the Board received this morning,
16 right?

17 A. That's correct.

18 Q. Tell us what...what's happened here.

19 A. Yes. You'll notice that there's several
20 parties listed on there that we have leased, and a couple of
21 additional addresses that we've...not addresses, unknown
22 addresses, persons that we have identified.

23 Q. So, Exhibit B-2, then lists for the Board
24

1 folks that you noticed in your original application that you
2 have, since the time you filed originally, been able to lease
3 them?

4 A. We have.

5 Q. And then in addition, and I'm looking at
6 Tract 4AI and AQ, you've identified some additional folks for
7 whom you do not have addresses, and could not mail?

8 A. That's correct.

9 Q. And I take it, you would then request that
10 the Board dismiss the folks that you've leased and add the
11 names of the folks that you've identified, even though you
12 don't have addresses?

13 A. That's correct.

14 BENNY WAMPLER: Let me ask a question on tract four
15 while you're there.

16 LESLIE ARRINGTON: Okay.

17 BENNY WAMPLER: You've got Earl Whited there. Is
18 it Earl Whited/or there, these folks?

19 LESLIE ARRINGTON: Yes, sir.

20 MASON BRENT: It shows that on the---.

21 LESLIE ARRINGTON: On the B-3.

22 MASON BRENT: On the new B---.

23 LESLIE ARRINGTON: On the B-3, yes.

24

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1 (Board members confer.)

2 LESLIE ARRINGTON: Not on B-2. We didn't have the
3 or there.

4 BENNY WAMPLER: But it should be?

5 MARK SWARTZ: No, because it's a list of people
6 we're dismissing. We're sort of identifying the tract under
7 which they're claiming. I guess we probably should not have
8 put Earl on there at all to answer the confusion.

9 BENNY WAMPLER: On this---.

10 LESLIE ARRINGTON: Yeah.

11 MARK SWARTZ: Yeah. So, we probably should just
12 get---.

13 BENNY WAMPLER: That's what I was trying to figure
14 out why he was on---.

15 MARK SWARTZ: Yeah. He should not be on there.

16 BENNY WAMPLER: Okay.

17 MARK SWARTZ: Good question.

18 CLYDE KING: So, mark him off?

19 MARK SWARTZ: Yeah.

20 Q. Now, go...let's just continue to the next
21 exhibit in the amendments, Les.

22 A. Yes.

23 Q. Which is Exhibit B-3?

24

1 A. That's correct.

2 Q. Now, tell the Board what the...what the
3 situation here is with the alternatives again. I mean,
4 they've heard it before, but this is the first time that we
5 see the Brown Heirs in this unit, right?

6 A. That's correct.

7 Q. Okay. So, why don't you---?

8 A. Again, this is back in the same title issue
9 back in the '20s. The same person out under contract
10 apparently trying to sell property and he did, but he didn't
11 have a deed for it. So, you know, we can't determine unless
12 there's some sort of court action who actually owns the
13 tract. We can trace the chains forward and that's what you
14 see here.

15 Q. So, what---?

16 BENNY WAMPLER: Here you actually have three?

17 MARK SWARTZ: Right.

18 LESLIE ARRINGTON: That's correct.

19 Q. For example, with regard to Tract 4, you've
20 got Mr. Whited, who we've been talking about; you've got Dr.
21 Harrison Heirs?

22 A. That's correct.

23 Q. And now you've also got people...additional
24

1 people that have a title claim as the Ellen Brown Heirs, a
2 number of folks are here this morning and a number of people
3 that you've listed?

4 A. We do. You've got a long chain there. It's
5 just something that we...we cannot do. It will have to be
6 between parties to determine property ownership.

7 Q. With regard to this unit, going...continuing
8 on to Exhibit A, page two, the revised one in the packet that
9 was handed out this morning.

10 A. Yes. Yes.

11 Q. Would you tell the Board...you know,
12 summarize for the Board what you've been able to lease and
13 what's still outstanding and what it is we're seeking to
14 pool?

15 A. Yes. We...we have leased from the coalbed
16 methane owner 100% of the coal and 77.33% of coalbed methane
17 interest leased from the oil and gas owner. We're seeking to
18 pool 22.67% coalbed methane interest from the oil and gas
19 owner. And underneath this unit, we lease 100% of the coal.

20 Q. Okay, now, there's obviously a need for an
21 escrow here for a number of reasons, right?

22 A. Yes, there is.

23 Q. We've got...and Exhibit E lists conflicting
24

1 owners that would require escrow, correct?

2 A. It does.

3 Q. Also we've got an escrow requirement because
4 of unlocatables?

5 A. That's correct.

6 Q. And we've also got a cloud on title escrow
7 requirements. So, when the order will be drafted, you need
8 to, you know, actually look at all three of those as reasons
9 for escrow?

10 A. That's correct.

11 Q. And we do not have a royalty split agreement
12 on this unit, is that correct?

13 A. That's correct.

14 MARK SWARTZ: Okay, unless there are some
15 questions from the Board on AX-111, we're ready to move on to
16 the next one.

17 BENNY WAMPLER: Any questions from members of the
18 Board on this one?

19 (No audible response.)

20 BENNY WAMPLER: Okay, move on.

21 MARK SWARTZ: Okay.

22 (Leslie Arrington and Anita distribute exhibits.)

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LESLIE ARRINGTON
DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Okay, with regard to AX-113, Les. We've got a number of revised exhibits, correct?

A. That's correct, we do.

Q. With regard to the exhibits in the application that we need to address, we've got the designation on the plat that needs to change?

A. That's correct.

Q. We have, I assume...yes, we do. We have one well in the drilling window?

A. That's all, yes.

Q. Okay. We have a cost estimate, is that correct?

A. We do. The estimate for this well is \$207,474.33, to be drilled to an estimated depth of 2,550 feet. I don't believe this permit has been issued yet.

Q. With regard to the revised exhibits, we've got an Exhibit B-2. So, I assume that we've got some addition and subtraction issues, right?

A. We do.

Q. Okay. Looking at Exhibit B-2, you've got

1 two columns, Reason for Dismissal is the fourth column and
2 the fifth is Reason for Additions. See that?

3 A. It is. Yes.

4 Q. And on the first page of B-2, you've got a
5 whole list of folks with an explanation as to why they can be
6 dismissed?

7 A. That's correct. We do.

8 Q. Some...one person you identified really
9 shouldn't have been in this unit at all?

10 A. That's correct.

11 Q. You've purchased some interests and you've
12 leased some interests, correct?

13 A. We have.

14 Q. And that's true with the second page, you've
15 leased some more interests?

16 A. We have.

17 Q. And then are these the same folks that
18 turned up on the last one you just spoke about---?

19 A. It is.

20 Q. ---there, some additional folks you've
21 identified, but you don't have addresses for?

22 A. That's...that's the same parties, yes.

23 Q. The A. I. and A. R.?
24

1 A. Uh-huh.

2 Q. Okay. With Exhibit...with regard to Exhibit

3 B-3, are we seeing that we have the same title issue that

4 we've talking about between Mr. Whited, Dr. Harrison, the

5 Ellen Brown Heirs and now some other people as well?

6 A. Yes, it is.

7 Q. Would you just briefly summarize what's

8 going on here for the Board as well?

9 A. Yes. Again, it's the same problem.

10 Somewhere around 1920, a person selling property under

11 contract and not having a deed for it, two or possibly three

12 chains of title. We have traced them as far as possible and

13 this is the result of it.

14 Q. Okay, is the explanation with regard to

15 Tract 1, even though we see some different folks here, is

16 that this same agent problem---?

17 A. Yes, it is.

18 Q. ---that accounts for ors?

19 A. Uh-huh.

20 Q. Okay. And then with regard to Tract 2A,

21 we're back to Mr. Whited, Dr. Harrison's Heirs and the Ellen

22 Brown Heirs, correct?

23 A. That's correct. Uh-huh.

24

1 Q. And have you also prepared and filed a
2 revised Exhibit E?

3 A. We have.

4 Q. Okay. And here, again, what the reasons
5 that escrow is required?

6 A. Ownership is not known. The conflicts
7 between coal, oil and gas owner and unknown addresses.

8 Q. With regard to mailing, what was the date
9 from your certificate that these notices were mailed to the
10 extent you had addresses?

11 A. February the 16th, 2001.

12 Q. And publication occurred?

13 A. February the 22nd, 2001, in the Bluefield
14 Daily Telegraph.

15 Q. And what was published?

16 A. The Notice of Hearing and the location map.

17 Q. I think we've got a revised Exhibit A, page
18 two if I'm not mistaken.

19 A. We do.

20 SANDRA RIGGS: It's missing in the packet, I think.

21 MARK SWARTZ: Okay.

22 BENNY WAMPLER: It's not in mine.

23 MARK SWARTZ: Well, we need to see if we can find
24

1 that. Anita, do you got one?

2 (Mark Swartz, Leslie Arrington and Anita confer
3 among themselves.)

4 Q. Let's...I guess we're going to have to
5 summarize it perhaps without numbers. Let's just be patient
6 here. With regard to Tract 1 that we're seeking to pool
7 interest in---?

8 A. That's correct.

9 Q. ---the Exhibit B-3 shows that Tract 1 is
10 45.44 acres, or roughly 77.41% of the unit, correct?

11 A. That's correct.

12 Q. Have you obtained leases from some of the
13 folks in that...that have claims in that tract, or have you
14 purchased interest?

15 A. Yes, we have.

16 Q. And those are reflected on Exhibit B-2?

17 A. Yes, they are.

18 Q. So, the interest that you've acquired in
19 that tract are actually set forth the amended Exhibit B-2?

20 A. That's correct.

21 Q. And then by comparison of that and B-3, you
22 can tell what's still outstanding?

23 A. That's correct.

24

--

1 Q. With regard to Tract 2A, have you also
2 leased additional interests?
3 A. We have.
4 Q. And those are reflected on Exhibit B-2 as
5 well?
6 A. Correct.
7 Q. So, the percentages to the extent they're
8 reflected on Exhibit B-3 in the original application are now
9 less?
10 A. Correct.
11 Q. And about the best we can do is at this
12 juncture, can you do the math?
13 A. The total that has to be escrowed---.
14 Q. Okay.
15 A. ---is 91.58%.
16 Q. And that's because of conflicting titles---?
17 A. Yes.
18 Q. ---and unknowns?
19 A. Correct.
20 Q. Okay. And of that percent that needs to be
21 escrowed, you have leased a portion?
22 A. A portion of that 91.58%.
23 Q. And then there's about...almost 10% that
24

1 does not require escrow that you've also leased?

2 A. That's correct. And we also have leased
3 from the coal owner 100% of the coalbed methane interest.

4 Q. So, we're just talking oil and gas side?

5 A. That's correct.

6 Q. Oh, and you've done a revised tract
7 identification as well.

8 A. Yes, we have.

9 Q. The last exhibit we haven't talked about.
10 And what...what is...what were the revisions there?

11 A. Yes. That was at...the change there was
12 that, if you'll look back on B-2, was that party, the Linkous
13 and Yvonne Perkins. I believe you'll notice that in the
14 original...right here, Harvey, and that was the correction
15 there---.

16 Q. Okay. So, you---?

17 A. ---for Tract 1.

18 Q. So, with regard to the changes pertaining to
19 Tract 1 on the tract identification and you've added another
20 person that has an or interest?

21 A. Yes, I did.

22 Q. And that's with regard to the oil and gas
23 estate---?

24

1 A. Yes.

2 Q. ---which is the problem?

3 A. Uh-huh.

4 MARK SWARTZ: With regard to AX-113, unless you

5 have any questions, that's...that's I would have.

6 BENNY WAMPLER: Any questions from members of the

7 Board?

8 (No audible response.)

9 BENNY WAMPLER: Go ahead with the next one. Are you

10 going to file an amended Exhibit B---?

11 LESLIE ARRINGTON: Yes, I will.

12 BENNY WAMPLER: ---page two?

13 LESLIE ARRINGTON: Uh-huh.

14 (Anita distributes exhibits.)

15 BENNY WAMPLER: You also had Whited listed on B-2.

16 MARK SWARTZ: I'm sorry?

17 BENNY WAMPLER: You also had Whited listed on B-2.

18 LESLIE ARRINGTON: Okay.

19 MARK SWARTZ: Right. We might as well just go ahead

20 and fix that.

21 MARK SWARTZ: Okay, you should have a set of

22 additional exhibits with regard to AY-110.

23

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LESLIE ARRINGTON

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DIRECT EXAMINATION

4 QUESTIONS BY MR. SWARTZ:

5 Q. Les, with regard to AY-110, do we have some
6 revised Exhibits---?

7 A. Yes, we do.

8 Q. ---that you filed this morning?

9 A. Yes.

10 Q. Okay. This is a Middle Ridge unit, correct?

11 A. It is.

12 Q. 58.7 acres on the plat?

13 A. Yes.

14 Q. And we need to modify the plat again?

15 A. Yes.

16 Q. Have you done a cost estimate with regard to
17 this unit?

18 A. Yes, we have.

19 Q. Tell us about that.

20 A. Yes, it's...the estimated cost of \$203,199
21 to be drilled---.

22 Q. No, no.

23 A. \$119. Okay. And to a total depth of 2313

24

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1 feet.

2 Q. And it looks like there's a permit on this
3 well?

4 A. Yes, 4789.

5 Q. Does this well estimate, or cost estimate,
6 include through completion for production costs?

7 A. Yes, it does.

8 Q. So, fracture and stimulation are in it, is
9 that right?

10 A. That's correct. It's in there.

11 Q. With regard to mailing, you filed your
12 certificate of notice and from that, can you tell the Board
13 when you mailed?

14 A. Yes. It was February the 16th, 2001.

15 Q. And when was this notice published?

16 A. Published in the Bluefield Daily Telegraph
17 on February the 22nd, 2001.

18 Q. And you published what?

19 A. The Notice of Hearing and the location map.

20 Q. Now, we've got some folks that we would ask
21 that the Board dismiss that were originally named as
22 respondents.

23 A. That's correct.

24

--

1 Q. And they're in Tract #8, correct?

2 A. That's correct.

3 Q. And the folks that you're asking that the

4 Board dismiss, could you state their names?

5 A. Yes. Nancy C. Stacy and Janice Shortridge.

6 Q. And what's the reason?

7 A. They were leased.

8 Q. Okay.

9 A. I'll have to revise the B-2 to indicate

10 that.

11 Q. Okay. I'm not sure you need to revise it.

12 You've just given the Board a reason.

13 A. That's correct.

14 Q. But if you want to, you can. Going to

15 Exhibit B-3, do we again have the problem with some of Mr.

16 Whited's lands that we've seen?

17 A. Yes, it is.

18 Q. In this instance, we don't have the Ellen

19 Brown Heirs, right?

20 A. That's correct.

21 Q. But we do have Dr. Harrison?

22 A. That's correct.

23 Q. And we have another set of heirs, correct?

24

1 A. That's correct.

2 Q. Who are in conflict, at least on a title
3 issue basis, with Mr. Whited?

4 A. That's correct, it is.

5 Q. The amended A, page two shows what?

6 A. That we have 100% of the coal owners...
7 coalbed methane interest leased. And 96.312% of the oil and
8 gas owners/coalbed methane. We're seeking to pool 3.688% of
9 the oil and gas/coalbed methane interest.

10 Q. And escrow is required here?

11 A. Yes, it is.

12 Q. For what reason?

13 A. Conflicting claims between the coal and oil
14 and gas owner and title conflicting claims.

15 Q. And---?

16 A. And an address unknown.

17 Q. And you set forth those requirements, or
18 recommendations, with regard to escrow in your Exhibit E, is
19 that correct?

20 A. That's correct.

21 MARK SWARTZ: That's all I've got regarding AY-110,
22 subject to questions.

23 BENNY WAMPLER: Questions from members of the Board?
24

1 (No audible response.)

2 BENNY WAMPLER: Move on to the next one.

3 (Anita distributes exhibits.)

4 MARK SWARTZ: You should have in front of you some
5 revised exhibits and some new exhibits regarding AY-111.

6

7

8

9 LESLIE ARRINGTON

10 DIRECT EXAMINATION

11 QUESTIONS BY MR. SWARTZ:

12 Q. Again, Les, looking at the plat as filed,
13 we're talking one well in a drilling window, correct?

14 A. That's correct, it is.

15 Q. And we need to modify the field name?

16 A. That's correct.

17 Q. Okay. The original application contained a
18 well estimate of costs, right?

19 A. Yes, it does. For an estimate cost for the
20 well is \$202,945.73, permit number is 4799, estimated depth
21 is 2,294 feet.

22 Q. And that would be completed for production
23 costs?

24

--

1 A. That's correct, it is.

2 Q. Turning to the exhibits that the Board was
3 given, the revised exhibits that the Board got today and some
4 of the additional exhibits. With regard to mailing, when
5 were...was the mailing accomplished to the respondents?

6 A. February the 16th, 2001 by certified
7 mail/return receipt requested.

8 Q. Publication was accomplished?

9 A. In the Bluefield Daily Telegraph on February
10 the 22nd, 2001.

11 Q. And what was published?

12 A. The Notice of Hearing and the location map.

13 Q. Have you been able to lease some additional
14 interests between the time you filed this and today?

15 A. Yes, we have. We have those listed in the
16 revised Exhibit B-2 showing the dismissal of Nancy C. Stacy
17 and Janice Shortridge.

18 Q. And then if you'll turn to the next page,
19 we've got a revised Exhibit B-3, which---?

20 A. Yes.

21 Q. ---of course, would remove the names of the
22 people you've got leases from?

23 A. That's correct.

24

--

1 Q. Okay. And then the last revised exhibit
2 that we're going to be talking about today is Exhibit A, page
3 two, correct?

4 A. That's correct.

5 Q. And summarize for the Board what the status
6 of the acreage is?

7 A. Yes. From the coal owner, we have 100% of
8 the coalbed methane interest leased, 80.43% of the coalbed
9 methane interest from the oil and gas owner, and we're
10 seeking to pool 19.57% of the oil and gas interest.

11 Q. Now, going back to the original application,
12 there is an Exhibit E, so there's a recommendation with
13 regard to escrow, correct?

14 A. It is.

15 Q. And here, what are the reasons that escrow
16 is required?

17 A. Address unknown, conflicting ownership
18 between the oil and gas and coal owner and conflicting oil
19 and gas ownership.

20 Q. Okay. And if you look at that, we've got
21 Whited, Dr. Harrison and Gante Enterprises issue again that
22 we started this exercise with today, right?

23 A. That's correct.

24

--

1 MARK SWARTZ: That's all I have with regard AY-111.

2 BENNY WAMPLER: Any questions from members of the
3 Board?

4 (No audible response.)

5 BENNY WAMPLER: Okay. Move to the next, AY-112.

6 (Anita distributes exhibits.)

7 BENNY WAMPLER: Okay, hopefully, you all have AY-112
8 supplemental exhibits or revised exhibits.

9

10 LESLIE ARRINGTON

11 DIRECT EXAMINATION

12 QUESTIONS BY MR. SWARTZ:

13 Q. Les, with regard to this unit, how many
14 wells are we talking?

15 A. One well.

16 Q. In the drilling window?

17 A. Yes.

18 Q. And again, we've got to modify Oakwood to
19 Middle Ridge, right?

20 A. That's correct.

21 Q. Okay. Have you done, with regards to this
22 unit and this well, a well cost estimate?

23 A. We have. It's...the well estimated cost is

24

--

1 \$209,680.79 and I didn't quite get the depth on that one.

2 Q. Okay. But you could---?

3 A. I could back into it.

4 Q. Okay, why don't you back into it.

5 A. It will be 22...2,230 feet.

6 Q. And you're adding 19 feet of 15 inch

7 drilling to the 2211, right?

8 A. That's correct.

9 Q. Okay. And is that your estimate as to the

10 completed for production cost of this proposed well?

11 A. Yes, it is.

12 MASON BRENT: Could you repeat that depth, please?

13 A. 2,030 feet.

14 MASON BRENT: Thank you.

15 Q. Turning to the packet of exhibits that were

16 filed this morning, Les. From the Certificate of Notice, can

17 you tell the Board the day on which notice was mailed as

18 required by law to all the respondents that you had addresses

19 for?

20 A. Yes. It was mailed February the 16th, 2001

21 by certified mail/return receipt requested. It was published

22 in the Bluefield Daily Telegraph on February the 22nd, 2001.

23 Q. And what was published?

24

1 A. The Notice of Hearing and location map.

2 Q. Now, we've got an Exhibit B-2 here, right?

3 A. We do.

4 Q. Which means that you want to add some folks

5 and subtract some folks, correct?

6 A. That's correct.

7 Q. Probably the best way to make sure there's

8 no confusion ultimately is why don't you tell us the names of

9 the people that you've leased, obtained leases from that

10 you're asking the Board to dismiss?

11 A. Okay. Goldeen Lilly, Arsel Rose, Anna

12 Nuckles, Carson Brown, Nancy Stacy and Janice Shortridge.

13 Q. And those are the people that you've leased

14 and you want them dismissed?

15 A. That's correct.

16 Q. And are there some folks that you want to

17 add?

18 A. Yes. Lenny Perkins and Dr. Harrison and we

19 still have...do not have addresses for those parties.

20 Q. Now, if you'll turn the page to B-3, I

21 assume that the list of people to be pooled has been changed

22 to eliminate the people you've leased and add the people that

23 you've uncovered that we just talked about on---?

24

1 A. Yes.

2 Q. ---B-2, correct?

3 A. I hope.

4 Q. Okay. Well, that's the theory?

5 A. I hope.

6 Q. Okay.

7 CLYDE KING: Can I have those again that you're

8 removing?

9 LESLIE ARRINGTON: Removing?

10 CLYDE KING: Uh-huh.

11 LESLIE ARRINGTON: Goldeen Lilly, Arsel Rose, Anna

12 Nuckles, Carson Brown, Nancy Stacy and Janice Shortridge.

13 CLYDE KING: Thank you.

14 Q. Now, with regard to Exhibit E, to look at

15 that, we need to...well, let's just finish up here. The last

16 revised exhibit, or the second to last revised exhibit here

17 is A, page two, correct?

18 A. Yes, it is.

19 Q. Okay. And what interest have you acquired

20 and what interest are you seeking to pool?

21 A. Yes. We have 100% of the coal/coalbed

22 methane interest, 82.66% of the oil and gas/coalbed methane

23 interest. We're seeking to pool 17.34% of the coalbed

24

1 methane interest from the oil and gas owner.

2 Q. Now, in this instance, Exhibit E describes
3 the requirements for escrow, correct?

4 A. It does.

5 Q. And again, we've got a conflict situation
6 with Mr. Whited, Dr. Harrison and the Ellen Brown Heirs,
7 correct---?

8 A. That's correct.

9 Q. ---in terms of who actually has title?

10 A. Correct.

11 Q. So, that's one of the reasons for escrow?

12 A. Yes. Addresses unknown.

13 Q. And we've got an oil and gas conflict as
14 well, right?

15 A. That's correct.

16 Q. And the tracts that would...that escrow
17 would be required for are also listed in Exhibit E and
18 there's a bunch of them?

19 A. That's correct, it is.

20 MARK SWARTZ: That's all I have with regard to AY-
21 112.

22 BENNY WAMPLER: Questions from members of the Board?

23 (No audible response.)

24

--

1 MARK SWARTZ: That is...that's it for the seven that
2 you had combined in that Middle Ridge area.

3 BENNY WAMPLER: All right. Do any of you folks have
4 any questions before we...what they're doing is moving you
5 into escrow. Is there any questions?

6 AUDIENCE: These guys need to do the talking.

7 BENNY WAMPLER: Okay.

8 LUCILLE PENDELL: I have a questions in case they
9 overlook. Who do you have owning Dr. Harrison's property?

10 MARK SWARTZ: We have not been able to identify his
11 heirs. So, we know that he owned it at some point and we
12 can't get the title forward of that. So, there's an interest
13 there, but if you can help us, you know, we'd appreciate it.

14 LUCILLE PENDELL: I wish I could. No, I know you
15 kept mentioning Earl Whited.

16 MARK SWARTZ: Yes.

17 LUCILLE PENDELL: And right here it says, "Earl
18 Whited or Dr. L. N. Harrison." What does that mean?

19 LESLIE ARRINGTON: Yes. Yes, ma'am.

20 BENNY WAMPLER: We're going to...ma'am, we
21 can't...we can't do this back and forth. You have to come
22 down and get on the record or...or---?

23 LUCILLE PENDELL: I'll let the guys talk.

24
~

1 BENNY WAMPLER: Okay. Okay.

2 TIVIS BROWN: My name is Tivis Brown. I'm one of
3 the heirs on the Ellen Brown property. I may be appealing to
4 the Board at some time. I've not heard any so far. But as
5 things going along, I may be making some appeals to the Board
6 in regard to this escrow account.

7 We're here today on account of we was noticed to
8 come this hearing. Well, before we got a letter from the
9 Board from Consol that our property would not be a factor.
10 So, I kind of got us a part. We have a copy of the letter
11 and part of the report where it said that Consol mailed out
12 to us that our property would not be affected.

13 At one time they wanted to buy the property from us
14 100%. Well, at a later date, just recently, they're going to
15 buy 14 acres right out of the center of the land, which we've
16 not come to no terms or no agreements on. We're not
17 represented by counsel or a lawyer or anything. We're here
18 as landowners, as concerned citizens of Russell County and
19 the taxpayers of that land. So far to this date, we don't
20 feel that we've been offered a fair price either to sell the
21 property or a fair price of what gas is bringing at this
22 particular time.

23 We'd like for the Board to take into consideration
24

1 before they consider issuing a permit for this account to be
2 escrowed, I feel like that we don't need to go back to a ten
3 year price. We need to come today's price. A price where
4 gas is bringing 500% more than it was a few years ago.
5 That's where my appeal is to the Board.

6 BENNY WAMPLER: Did you have---?

7 HENRY BROWN: My name is Henry Brown and I'm part of
8 the Ellen Brown Heirs. One of the things that we've
9 got...also here is about the land. You know, like he said,
10 they wanted to buy property right in the center of the land.
11 But as far as...I was concerned, too, of the environmental
12 part of it where the slug and whatever, you know, being
13 emptied into the creeks and over there whatsoever. We
14 haven't been...haven't had anything explained to us really
15 about what's going on there. We need that...we're here to
16 ask you all to kind of help us out on that. You know, we
17 haven't been offered fair prices on it whatsoever and I feel
18 that they should be...it should be taken further
19 consideration of what's going on right now.

20 TIVIS BROWN: We should be compensated fairly and
21 squarely as the market stands now, not a back dated portion
22 as was offered to begin with. Right here is one thing that
23 stands in the way for us selling them the 14 acres.

24

--

1 Well, H. C. Bostic comes up on one side of it and
2 the Earl Brown property and the Harrison property comes up on
3 the other part. Well, right in the middle of this, we have
4 coal that has been stripped before that can be stripped
5 again. We'd sell this fourteen acres which they...my part of
6 it, I believe, would have come to about \$800, which would
7 have been practically nothing to me. I don't think that's
8 fair. If we sold this out, we'd never be able to strip this
9 coal because we wouldn't have no place to put the dirt. They
10 want all the level land right around the top of the hill
11 there where the coal has been stripped. So, they've
12 petitioned for a 50 foot right-of-way, which I'm sure they
13 will get.

14 We're not in question about the methane, the top
15 methane gas and stuff, you know. That's to be decided with
16 the court who it belongs to. But we want our fair share
17 where our land is tore up and where the well goes and where
18 they have proposed...but they've got it listed here as a AX-
19 112. That's not the way it is described in this paper.

20 MARK SWARTZ: Right. I mean, we're not trying to
21 pool AX-112 today for some obvious reasons. I mean, we
22 haven't reached an agreement. I mean, we have...there is a
23 strip bench on AX-112. We've been trying to acquire the
24

1 right to drill a well on that bench because it would be a
2 great place to put a well, but we have not been able to reach
3 an agreement. He's absolutely right. I mean, we'll
4 obviously revisit that and try and work it out. But we
5 may...you know, but we're not here on---.

6 BENNY WAMPLER: We don't have AX-112 on the agenda
7 today.

8 MARK SWARTZ: Correct. Correct.

9 BENNY WAMPLER: Okay. It's not...it's not on
10 today's agenda.

11 MARK SWARTZ: But they can't give us a right-of-
12 way. So, if you feel like they can give us a right-of-way,
13 they can't. We're going to have...if we want a right-of-way,
14 we've got to get from you all.

15 TIVIS BROWN: I understand this is just a hearing.

16 MARK SWARTZ: Right. Right. You've got...but you
17 said that, you know, we might get a right-of-way without
18 dealing with the property owner. We're not going to get a
19 right-of-way.

20 TIVIS BROWN: Well, like I say, I'm not a lawyer.
21 I'm just a spokesman for the Brown Heirs and what we feel is
22 our right and the way that things should be going according
23 to the way things are today and not ten years back.

24

--

1 MARK SWARTZ: And what I'm trying to explain to you,
2 just so there's no confusion at all, I've got the same map
3 you've got. You've just colored yours with pretty orange and
4 I didn't have that.

5 TIVIS BROWN: Uh-huh.

6 MARK SWARTZ: But this piece of...this piece here,
7 AX-112, okay, which would be this piece right here---.

8 TIVIS BROWN: Uh-huh.

9 MARK SWARTZ: ---is not a hearing in front of this
10 Board today---.

11 TIVIS BROWN: Okay.

12 MARK SWARTZ: ---because we're not ready to...you
13 know, we don't haven't an arrangement to drill a well here.
14 We're not ready to be here on that. So, we're not in front
15 of the Board on the thing you're worried about today.

16 TIVIS BROWN: All right. What about the escrow part
17 on the whole property?

18 MARK SWARTZ: Okay, on the rest of the units that
19 we're here on, it's up to them to look at the title and if
20 there is a reason under the law to escrow, then they make an
21 order with regard to escrow and they have a bank that, you
22 know, works for the...not works, but is contracted with the
23 Commonwealth that holds money in.

24

--

1 TIVIS BROWN: Well, that would also bring this
2 fourteen acres under the escrow thing that you people---.
3 MARK SWARTZ: Only up to the line. Only this part.
4 TIVIS BROWN: Well, that would take in part of that.
5 HENRY BROWN: Just to here, 14 acres.
6 MARK SWARTZ: Well, is this just a surface tract or
7 is this an oil and gas tract?
8 TIVIS BROWN: This is the surface.
9 MARK SWARTZ: Well, then it wouldn't be involved at
10 all. Okay, you've got to have...you've got to have an oil
11 and gas claim. If the tract that you've got in orange is
12 just a surface tract, if that's all it is, nobody is going to
13 receive any money escrow or out of escrow for the gas. But
14 if we...if there is a purchase of use of the surface, that
15 would be.
16 TIVIS BROWN: Well, why would somebody want 14 acres
17 out of the middle of your land for other purposes if it
18 wasn't part of it wanting to be put in that escrow account?
19 MARK SWARTZ: If you don't own coal or oil and gas,
20 you don't have a claim to the money and there are instances
21 where the Brown Heirs have an oil and gas claim.
22 LESLIE ARRINGTON: They have the claim here, Mark.
23 They have the surface, oil and gas. We've been negotiating
24

1 for that 14 acres.

2 MARK SWARTZ: Okay.

3 LESLIE ARRINGTON: And we have not reached an
4 agreement. Now, all the units that's surrounding that is the
5 units that we're here today on that's surrounding that unit.

6 TIVIS BROWN: They're up on both sides of it.

7 LESLIE ARRINGTON: That's correct. But we are not
8 here today on that acquisition of that unit. That's not the
9 reason we're here today. We haven't reached an agreement to
10 locate that well yet. So, you know, it's just---.

11 MARK SWARTZ: But on this thing, if you've got
12 surface oil and gas, then this piece of the orange, which is
13 in these...which is partly in this unit and partly in this
14 unit, revenue...gas revenue associated with this piece of
15 ground would be escrowed.

16 TIVIS BROWN: Well, it was my understanding---.

17 MARK SWARTZ: But not over here.

18 TIVIS BROWN: ---that the whole thing---.

19 MARK SWARTZ: No.

20 TIVIS BROWN: ---across here would be escrowed.

21 MARK SWARTZ: No.

22 LESLIE ARRINGTON: No.

23 HENRY BROWN: Well, right here, you know, we

24

1 have...there's also a Notice here to appear here today on
2 March the 19th---.

3 MARK SWARTZ: But you need to turn the page.

4 HENRY BROWN: ---and that includes this here---.

5 MARK SWARTZ: No, it doesn't.

6 HENRY BROWN: ---Earl Whited and all---.

7 MARK SWARTZ: You need to look at the first page.

8 TIVIS BROWN: The first page is that---.

9 MARK SWARTZ: Okay, and that is---.

10 HENRY BROWN: I believe I got my name on---.

11 MARK SWARTZ: That's AY---.

12 HENRY BROWN: ---that I was involved in it.

13 MARK SWARTZ: Okay, that's AY-112, which is down
14 here. Okay. It's not this one.

15 HENRY BROWN: This is to all these heirs of Ellen
16 Brown (inaudible).

17 MARK SWARTZ: Yeah, but here's the...but there's the
18 unit right there, AY-112.

19 TIVIS BROWN: Well, like we said, there's a
20 discrepancy in AX-112 and what you have us---.

21 MARK SWARTZ: No, it's not a discrepancy.

22 TIVIS BROWN: ---to appear here is AX or A-112.

23 MARK SWARTZ: It's AX-112.

24

1 BENNY WAMPLER: That's not before us.

2 TIVIS BROWN: Well, it don't tell us so on that.

3 But it's---.

4 MARK SWARTZ: Because we're not pooling this unit

5 today. We're not here on this today at all.

6 BENNY WAMPLER: See, it's not before the Board.

7 TIVIS BROWN: What about A---?

8 MARK SWARTZ: If we were here on this, you would get

9 a completely separate package that would say unit AX-112.

10 TIVIS BROWN: Just hold your cool. I'm holding mine

11 so far.

12 HENRY BROWN: Yeah, that's right.

13 TIVIS BROWN: But you have actually got us down on

14 112.

15 MARK SWARTZ: But look at what that is, AY---.

16 TIVIS BROWN: AY-112. And it's AX-112.

17 MARK SWARTZ: Here's AY-112 right here.

18 TIVIS BROWN: Well, why---?

19 HENRY BROWN: Why are we listed on it down here?

20 MARK SWARTZ: Because---.

21 TIVIS BROWN: Right here is the complete list of us.

22 MARK SWARTZ: Because it appears to us you have a

23 claim in this unit down here.

24

1 HENRY BROWN: That's what we're here for.

2 MARK SWARTZ: Right.

3 LESLIE ARRINGTON: But that's for the oil and gas
4 interest.

5 HENRY BROWN: That's why we're here. We have a
6 claim in this.

7 BENNY WAMPLER: That was for the oil and gas...we
8 don't...we're not anything to deal with surface. Any kind of
9 disputes that you have or any price you get for that surface
10 is between you and them. What we are here today is they are
11 trying...you know, asking the Board to pool the interest of
12 all parties who may have an interest in the oil and gas or
13 coal as identified as they specifically identified.

14 TIVIS BROWN: Well, I just have one other thing to
15 say, I hope the Board would take into the consideration that
16 they've not made a fair offer to the landowners for a right-
17 of-way for the gas or oil lease either one.

18 HENRY BROWN: We're not here really to stand in the
19 way of drilling for no gas at all, you know. Everything has
20 got on, but, you know, the thing of it is we're...we're
21 concerned about as being landowners that the property being
22 tore up and, you know, going in the middle of that. We can't
23 sell nothing. We can't cut no timber out of it. We can't
24

1 get in there. Once they do that, they've destroyed our
2 property, the value of our property; and another thing, we
3 was worried that they were going to, you know, put the...when
4 they drill these holes, where are put the slug out of that to
5 keep from contaminating the creeks and the rivers and the
6 waterways?

7 BOB WILSON: Mr. Chairman? Excuse me.

8 BENNY WAMPLER: Mr. Wilson?

9 BOB WILSON: Some of those issues you're addressing
10 are permitting and regulatory issues, which I'd be very happy
11 to discuss with you and tell you exactly how our laws and
12 regulations prevent the occurrences that you're talking about
13 or address them at any rate through the permitting process
14 and our field inspections while they're going on. They're
15 not Board issues, but they are permitting and regulatory
16 issues and I'd be very happy to discuss those with you
17 sometime.

18 TIVIS BROWN: One thing I think that we're kind of
19 disturbed about is this escrow thing, which you people do
20 have the right...rights on that. If they would offer us a
21 fair price, we're willing to sell. Until they do, we're not.

22 (Applause.)

23 SANDRA RIGGS: The escrow is required because of
24

1 conflicting claims to the ownership. Until you go into Court
2 and clear title to this property, they don't know who to pay
3 to. In other words, there's more than one claimant to the
4 same interest and until such times the title issues are
5 resolved, that's what's causing the escrow, which has nothing
6 to do with the price. The escrow is merely to hold the money
7 in a suspense account until such time as we can legally
8 determine whose money it is. Now, that's very different.

9 TIVIS BROWN: Yeah, I can understand that. Well,
10 they have the names of each and every person that owns
11 interest with Dr. Harrison.

12 SANDRA RIGGS: Well, in Virginia, there is a
13 conflict as to whether or not the owner of the coal owns
14 coalbed methane or the owner of the gas.

15 TIVIS BROWN: We understand that part.

16 SANDRA RIGGS: And when you have split so that one
17 person owns the coal and another person owns the gas, you
18 don't know which one to pay it for until that gets resolved.

19 TIVIS BROWN: We understand that part.

20 SANDRA RIGGS: And that's why the escrow is required
21 and not because of negotiations that you have going on with
22 them over the surface right-of way.

23 HENRY BROWN: Okay. Well, I was under the
24

1 assumption, you know, that all...that all of the Ellen Brown
2 Heirs would be...you know, as far as that that there was
3 any...say for coal, any mineral on that that was divided up
4 to the grandchildren. It was supposed to be that everyone
5 would be equally owned. It would be divided up equal to each
6 and everyone to a certain extent because we're all are
7 grandchildren, you know. My granddaddy and all of them
8 they've done...they done gone.

9 CLYDE KING: You've got to determine ownership.

10 BENNY WAMPLER: It would be to the percentage of
11 interest that you...that they have laid out here. Each
12 one...each one of you have a specific percentage of interest
13 and that's what you would have to...if you had a dispute with
14 that, that would be a different...a different matter you
15 understand. But that money wouldn't be taking in---.

16 TIVIS BROWN: We apologize---.

17 BENNY WAMPLER: ---and be paid in and disbursed
18 based on that percentage of interest.

19 TIVIS BROWN: We apologize if we've said anything
20 before you people that falls under your category or anything.
21 But...but before you escrow something or other, I feel that
22 you would want to have a firm understanding and knowledge of
23 things that's bringing a much higher price today then it was
24

1 ten years ago.

2 BENNY WAMPLER: Well, understand, like Ms. Riggs was
3 saying, when we're approving for escrow, we're not dealing
4 with price at all.

5 TIVIS BROWN: Uh-huh.

6 SANDRA RIGGS: And the royalty interest, if you end
7 up with a leased interest, that's a 1/8 royalty and it's 1/8
8 of whatever that price is. So, as the price goes up, the
9 percentage of the royalty goes up. So, it's not a fixed in
10 time.

11 MARK SWARTZ: No, the dollars go up.

12 SANDRA RIGGS: Right.

13 TIVIS BROWN: Well, maybe I'm more appealing to the
14 people that's bringing it here from Consol today, Consol and
15 the gas partnerships. We expect...this may be the only
16 chance I have to talk to you'uns for a while. We do expect a
17 fair share and we'll deal fairly with them.

18 MARK SWARTZ: Well, the royalty is going to get
19 escrowed and it's going to be 1/8 of what we sell it for.
20 So, if we sell it for \$2 two years ago, that's 1/8 of \$2. If
21 we sell it for \$6 it will be 1/8 of \$6. You know, it...but
22 that's going to be escrowed because of the title problems.
23 You know, and I really think you're having trouble here, and
24

1 maybe you're not, but if you think that anything is going to
2 happen with regard to your surface tract and locating a well
3 on AX-112 as a result of anything today, nothing has
4 happened. Before Consol is going to put anything on that
5 strip bench, they're either going to cut a deal with you to
6 do it or it isn't going to go there.

7 TIVIS BROWN: Well---.

8 MARK SWARTZ: And so you're going to be the ultimate
9 person that decides whether or not it's fair what they're
10 offering to have a right to put a well there and if you don't
11 think it is, it ain't going to go there.

12 BENNY WAMPLER: Plus, if they do get across that
13 hurdle and you have other concerns dealing with anything on
14 AX-112 that they have to come here for, you'll have a right
15 again to appear for that.

16 TIVIS BROWN: Uh-huh. Yeah, we understand that.

17 BENNY WAMPLER: You're not giving up...okay. I just
18 wanted to make sure.

19 HENRY BROWN: Yeah, we'd...like he said, we'd like
20 to apologize if we stepped in here where we wasn't supposed
21 to, you know.

22 BENNY WAMPLER: No, that's what this is for. I
23 mean---.

24

--

1 MARK SWARTZ: Believe it or not---.

2 HENRY BROWN: We appreciate it, you know.

3 CLYDE KING: You don't need to apologize.

4 MARK SWARTZ: No.

5 CLYDE KING: We're here to represent you.

6 MARK SWARTZ: We sent you guys a Notice because you

7 have a right to be here. You know, you don't need to be

8 apologizing to anybody.

9 HENRY BROWN: Well, I thought so, too.

10 BENNY WAMPLER: Okay.

11 TIVIS BROWN: Well, we want everybody to feel that

12 we're fair minded citizens, you know.

13 MARK SWARTZ: Well, people fight about money all the

14 time, you know, and maybe we'll be able to work something out

15 in terms of the surface, seriously, you know.

16 HENRY BROWN: Well, we're here to do that with any

17 of the guys from Consol that really want to sit down and talk

18 to us. We'd be glad to any day of the week or anytime of

19 the...anytime of the week. We'd more than happy to.

20 MARK SWARTZ: I'm sure they'll be back at you.

21 HENRY BROWN: I'll tell you we'd be more than glad

22 to sit down and work something out so that the gas companies

23 could get on with the business of drilling. But we'd sure

24

1 like to hear from you all.

2 MARK SWARTZ: Well, I'm sure they'll be back at you
3 with regard to AX-112, no question about it.

4 MAX LEWIS: Whenever you go to negotiate a price
5 maybe for your surface damages, you ought to consider now
6 they're going to pipelines laid on this.

7 MARK SWARTZ: Yes, sir.

8 HENRY BROWN: Uh-huh.

9 MAX LEWIS: You're going to have to consider that
10 and meter houses set on your property which will be there for
11 years. You need to consider all of that whenever you make a
12 settlement with them.

13 HENRY BROWN: Well, any damage would be aftermaths
14 or anything---.

15 MAX LEWIS: And pipelines.

16 HENRY BROWN: What they take up and how much
17 destruction they do to the property as far as selling it.

18 MAX LEWIS: Well, it will be there for years to
19 come.

20 HENRY BROWN: I might not be here and gone, but you
21 know, I've got a...I've got a son and some grandkids that
22 will be. It's kind of like my great granddaddy, you know, he
23 probably figured he wouldn't be here that long, but he had
24

1 some kids come along that would be.

2 BENNY WAMPLER: Any...anything else from members of
3 the Board?

4 (No audible response.)

5 BENNY WAMPLER: Thank you very much. I appreciate
6 it.

7 HENRY BROWN: Thank you all.

8 BENNY WAMPLER: Any of the questions that others of
9 you have, if you want to get with them, you're welcome to
10 come down. If you want to get with them and get them
11 afterwards, you know, you're welcome to do that. If they
12 won't talk to you, come back and we'll let you ask them
13 again.

14 BENNY WAMPLER: Do we have anything...anything
15 further?

16 DENNIS GARBIS: Mr. Chairman, I make a motion that
17 we approve them as requested.

18 BENNY WAMPLER: We have a motion for approval.

19 KENNETH MITCHELL: I second.

20 BENNY WAMPLER: Hey, guys, I've got a motion for
21 approval and a second. All in favor, signify by saying yes.

22 (All members signify yes but Clyde King.)

23 BENNY WAMPLER: Opposed, say no.

24

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1 (Clyde Kings signifies a no.)
2 BENNY WAMPLER: We've got one no.
3 CLYDE KING: No, I didn't say no.
4 BENNY WAMPLER: Oh, I'm sorry.
5 (Board confer among themselves.)
6 BENNY WAMPLER: Let's take a five minute break.
7 (Break.)
8 BENNY WAMPLER: The next item on the agenda is a
9 petition from Pocahontas Gas Partnership for pooling of a
10 coalbed methane unit identified as FF-28, docket number VGOB-
11 01-03/20-0879. We'd ask the parties that wish to address the
12 Board in this matter to come forward at this time.
13 MARK SWARTZ: Mark Swartz and Les Arrington.
14 BENNY WAMPLER: The record will show there are no
15 others. You may proceed.
16
17 LESLIE ARRINGTON
18 DIRECT EXAMINATION
19 QUESTIONS BY MR. SWARTZ:
20 Q. Okay, Les, you're still under oath, right?
21 A. Yes.
22 Q. All right. State your name for the record.
23 A. Leslie K. Arrington.

24
~

1 Q. Who do you work for?

2 A. Consol Energy.

3 Q. Did you prepare either yourself or under

4 your supervision to the Notice of Hearing, the application

5 and the revised Exhibits for this unit FF-28 that we're going

6 to be talking about today?

7 A. Yes, I did.

8 Q. Okay. Who is the applicant?

9 A. Pocahontas Gas Partnership.

10 Q. And who is it that is requested be

11 designated as operator?

12 A. Pocahontas Gas Partnership.

13 Q. Okay. Is Pocahontas Gas Partnership a

14 General Partnership that has two partners, Consolidation Coal

15 Company and Conoco, Inc.?

16 A. Yes.

17 Q. Is Pocahontas Gas Partnership authorized to

18 do business in the Commonwealth?

19 A. Yes, it is.

20 Q. Has it registered with the Department of

21 Mines, Minerals and Energy and does it have a blanket bond on

22 file?

23 A. Yes, it does.

24

1 Q. Okay. And have you named the people that
2 are respondents in both the Notice of Hearing for this unit
3 and Exhibit B-3?

4 A. Yes, we have.

5 Q. Okay. And looking at the exhibits you've
6 given to the Board today, when did you mail?

7 A. We mailed on February the 16th of 2001 by
8 Certified Mail/Return Receipt requested.

9 Q. Okay. And there are some address unknown
10 people, right?

11 A. There is.

12 Q. And with regard to them, did you publish?

13 A. We did. In the Bluefield Daily Telegraph on
14 February the 21st, 2001.

15 Q. Okay. And what was published?

16 A. The Notice of Hearing and location map.

17 Q. Okay. And that Notice of Hearing would have
18 included the names of the people whose names you have but
19 whose addresses you do not have?

20 A. That's correct.

21 Q. This is a Oakwood unit?

22 A. Yes, it is, which contains...this is one of
23 the makeup units and it contains approximately 89.47 acres.

24

1 Q. Okay, so it's at the edge of the Oakwood
2 Field and it's a little larger?
3 A. That's correct. It is.
4 Q. How many wells are proposed?
5 A. One.
6 Q. Is it in the drilling window?
7 A. Yes.
8 Q. Is this a frac well?
9 A. Yes, it is.
10 Q. So, we're operating under the Oakwood I
11 Rules?
12 A. Correct.
13 Q. And basically we would be talking about a
14 makeup unit of roughly 89 acres where the production would be
15 from the Tiller on down?
16 A. That's correct.
17 Q. Have you provided the Board with a well cost
18 estimate?
19 A. Yes, I have. The well estimated cost is
20 \$200,529.33, drilled to an estimate depth of 2,250 feet.
21 Q. And is that estimate a completed for
22 production estimate?
23 A. Yes, it is.
24

1 Q. Okay. There's an Exhibit B-2. So I assume
2 we've got some additions or some subtractions, is that
3 correct?

4 A. We do.

5 Q. And that's in the packet that you passed out
6 today?

7 A. That's correct.

8 Q. And it looks to me like they're all
9 subtractions?

10 A. It is.

11 Q. Okay. And so are you requesting that the
12 Board dismiss those folks that you have indicated on Exhibit
13 B-2, in the last column opposite their names, that you have
14 leased or in a couple of instances where the seam that they
15 have an interest in is not encountered, so they don't have a
16 claim in the unit; and are you requesting that the Board
17 dismiss those folks for those reasons?

18 A. We are.

19 BENNY WAMPLER: Now when you say "seam not
20 encountered" would you explain that?

21 LESLIE ARRINGTON: I will. If you'll notice where
22 it says "Knox Coal Company" and you'll see in parentheses is
23 says "Jawbone Seam".

24

1 BENNY WAMPLER: Right.

2 LESLIE ARRINGTON: And it says "L. E. Joyce and W.
3 P. Joyce, Red Ash Seam".

4 BENNY WAMPLER: Right.

5 LESLIE ARRINGTON: In this application, in the
6 Oakwood Field, of course, the Jawbone is not...Jawbone nor
7 the Red Ash is included. In our original application, we had
8 it in there.

9 Q. Above the Tiller, right?

10 A. Uh-huh. Yes, above the Tiller won't be
11 produced.

12 Q. With regard to exhibit...the Revised Exhibit
13 B-3, is it safe to assume that the intention here is to
14 delete from the original list that was in B-3 the folks that
15 you're asking the Board to dismiss?

16 A. It is.

17 Q. With regard to the Revised Exhibit A, page
18 two, obviously that would change as you lease people or drop
19 people?

20 A. That's correct.

21 Q. And what is the current lease status of the
22 coal side of the oil and gas side?

23 A. Okay. On this unit...in this unit, we lease

24

1 96.10% of the coal and oil and gas/coalbed methane interest.
2 We're seeking to pool 3.90% of the coal, oil and gas/coalbed
3 methane interest. And you'll notice on this unit, this
4 is...we're starting to getting outside of our coal leased
5 standpoint. We're...you'll see we only have leased
6 underneath this unit 59.9978% of the coal.

7 Q. I see what I perceive to be a possible
8 mistake on A, page two.

9 BENNY WAMPLER: Right. It's not an impossible
10 thing.

11 (Mark Swartz and Leslie Arrington confer among
12 themselves.)

13 Q. Okay, which...we're going to have to file a
14 Revised A, page one, and would you explain to the Board---?

15 A. Yes.

16 Q. ---what the outstanding interest that you're
17 seeking to pool is? Is it the 346 or the 3.90 and then give
18 us your explanation?

19 A. Yes. It should be the 3.90. We copied in
20 as we know how that happens. Let me just go back and just
21 add that up real quick.

22 Q. All right.

23 (Mark Swartz and Leslie Arrington confer among
24

1 themselves. Board members confer among themselves.)

2 Q. Les, what is the...taking...going with the
3 Revised Exhibit B-3 which lists the folks that we're still
4 seeking to pool after the dismissals, what is the interest
5 outstanding that you're seeking to pool?

6 A. Yes. 4.44%.

7 Q. So, you'll be filing an A, page two, and
8 amending that accordingly?

9 A. Yes, we will.

10 Q. I also notice you have filed some Revised
11 Tract Identifications today. Do you see that?

12 A. Yes.

13 Q. If you compare the revision to the original,
14 what is it that has happened here?

15 (Mark Swartz and Leslie Arrington confer among
16 themselves.)

17 Q. Okay. Well, tell the Board what has
18 changed.

19 A. Yes. If you'll look at Tract 5, it's
20 labeled differently. It's labeled as Dorothy Miller and
21 others.

22 Q. Originally, it was?

23 A. Yes. In our Exhibit A...I mean, Tract IDs

24

--

1 now show it as J. M. Miller Heirs.

2 Q. And that's the change?

3 A. Yes.

4 Q. With regard to the folks that you have been
5 able to lease, obviously something on the order of 95%, what
6 are the lease terms that you've offered?

7 A. A 1/8 royalty, a \$1 per acre per year for a
8 coalbed methane lease with a five year term.

9 Q. Now, are you recommending those terms to
10 this Board in the event there is a deemed to have been leased
11 provision included in the pooling order?

12 A. That's correct, we are.

13 Q. With regard to unit FF-28, is it your
14 opinion that the drilling of a frac well in the location
15 shown on the plat within the drilling window is a reasonable
16 way to develop coalbed methane under this unit?

17 A. Yes, it is.

18 Q. And is it your recommendation to the Board
19 that they pool this unit so that all of the folks that you've
20 been able to lease, as well as the folks you have not been
21 able to lease, would have their claims to the resource
22 protected?

23 A. Yes, it is.

24

--

1 Q. That's all I have.

2 BENNY WAMPLER: Do you have on your Certificate of
3 Notice address unknown for Jeff Vance, Claude Vance and
4 several people who you have addresses, and Louise Vance, and
5 you have addresses over on B-3, did they get Notice?

6 LESLIE ARRINGTON: It doesn't look like it. We just
7 found those addresses, I'm sorry, to revise them on the new
8 exhibits. We just found those.

9 BENNY WAMPLER: But did they get notice?

10 LESLIE ARRINGTON: No, they did not.

11 BENNY WAMPLER: When you say you just found them,
12 you mean since you sent everything out?

13 LESLIE ARRINGTON: Yes.

14 BENNY WAMPLER: You found them since then?

15 LESLIE ARRINGTON: Yes, sir.

16 BENNY WAMPLER: Do you have consent to stimulate
17 this unit?

18 LESLIE ARRINGTON: With the exception of 1/216
19 interest.

20 MARK SWARTZ: You know, you raise a good question.
21 We have since revisit...well, I don't know if revisited it,
22 but we have...we have looked at that statutory provision
23 which we referenced in the application and we think it's, or
24

1 my current opinion is, it's self effectuating. So, we're not
2 asking you for an order in that regard.

3 SANDRA RIGGS: But it appears that the Board has to
4 make a specific finding.

5 MARK SWARTZ: Well---.

6 SANDRA RIGGS: "Provided the order contains a
7 finding that the operator has exercised due diligence in
8 attempting to identify and locate the coal operator."

9 MARK SWARTZ: Well, the part I'm talking about
10 is---.

11 BENNY WAMPLER: Are you talking about the majority
12 interest?

13 LESLIE ARRINGTON: Yes, sir. That's where we're
14 coming from, yes.

15 MARK SWARTZ: Yeah. And the more we---.

16 BENNY WAMPLER: That's why I was asking you these
17 things.

18 MARK SWARTZ: Right. And the more we looked at
19 that, we felt like it was a...if the circumstances described
20 in the statute were in play, we didn't even have to talk to
21 you all about it. You know, that we've leased the majority
22 interest and...let me just find that so that I'm not---.

23 BENNY WAMPLER: 361.29.

24

--

1 MARK SWARTZ: It's the...it's right in the middle
2 there, Sandy.

3 SANDRA RIGGS: Yeah, I see it.

4 MARK SWARTZ: "The required shall be deemed to be
5 granted for any tract or title to the coal is held by
6 multiple owners if you have obtained consent from co-tenants
7 holding the majority interest." So, you know...and when we
8 went back and looked...I mean, initially we felt like you did
9 and then we went back and looked at it and I think it's just
10 self effectuating. So, we don't...we're not going to ask you
11 to put a provision in the order because we think we've leased
12 the majority interest.

13 BENNY WAMPLER: Anything further from members of the
14 Board?

15 (No audible response.)

16 BENNY WAMPLER: Do you have anything further?

17 MARK SWARTZ: No.

18 BENNY WAMPLER: Is there a motion?

19 CLYDE KING: So moved.

20 MASON BRENT: I second it.

21 BENNY WAMPLER: A motion to approve and seconded.
22 Any further discussions?

23 (No audible response.)

24

--

165

1 BENNY WAMPLER: All in favor, signify by saying yes.
2 (All members signify yes.)
3 BENNY WAMPLER: Opposed, say no.
4 (No audible response.)
5 BENNY WAMPLER: You have approval. And the last
6 item on the agenda is a petition from Buchanan Production
7 Company for pooling of a coalbed methane unit identified as
8 W-19, docket number VGOB-92-09/15-0265-01. We'd ask the
9 parties that wish to address the Board in this matter to come
10 forward at this time.
11 MARK SWARTZ: Mark Swartz and Les Arrington on
12 behalf of Buchanan Production Company.
13 BENNY WAMPLER: The record will show there are no
14 others. You may proceed.
15
16 LESLIE ARRINGTON
17 DIRECT EXAMINATION
18 QUESTIONS BY MR. SWARTZ:
19 Q. Les, I'm going to remind you, you're under
20 oath.
21 A. Yes.
22 Q. Okay. You need to state your name.
23 A. Leslie K. Arrington.
24
~ ~

1 Q. Who do you work for?
2 A. Consol Energy.
3 Q. Who is the applicant on this application?
4 A. Buchanan Production Company.
5 Q. And who is it that is being requested be
6 appointed the designated operator if the Board so chooses?
7 A. Consol Energy.
8 Q. Did you sign the Notice of Hearing and the
9 application?
10 A. Yes, I have.
11 Q. And were those documents and the related
12 exhibits either prepared by you or under your direction?
13 A. Yes, they were.
14 Q. Is Buchanan Production Company a Virginia
15 General Partnership?
16 A. Yes, it is.
17 Q. Does it have two partners?
18 A. Yes, it does.
19 Q. Appalachian Operators and Appalachian
20 Methane, correct?
21 A. That's correct.
22 Q. And are those two corporate partners
23 indirect subsidiaries of Consol Energy, Inc.?
24

1 A. Yes, they are.

2 Q. Is Buchanan Production authorized to do
3 business in the Commonwealth?

4 A. Yes, it is.

5 Q. Are you asking that Consol Energy, Inc. be
6 designated the operator? My question is, is that a Delaware
7 Corporation?

8 A. Yes, it is.

9 Q. Is it authorized to do business in the
10 Commonwealth?

11 A. Yes, it is.

12 Q. And has it registered with the DMME?

13 A. Yes.

14 Q. And does it have a blanket bond on file?

15 A. Yes, it does.

16 Q. And this is fairly recent. Consol Energy,
17 Inc. is the successor in interest by merger, I believe, of
18 Consol, Inc., correct?

19 A. That's correct.

20 Q. And that was effective December 31?

21 A. Yes, it was.

22 Q. Of last year?

23 A. Yes.

24

1 Q. Many years ago Buchanan Production Company
2 delegated the responsibility and authority of developing its
3 properties and assets to Consol, Inc., correct?
4 A. That's correct.
5 Q. And has that delegation now fallen to Consol
6 Energy?
7 A. Yes, it has.
8 Q. And in that status, Consol Energy, Inc.
9 is...you're here on their behalf, acting on behalf of
10 Buchanan Production Company and seeking that they be
11 appointed designated operator?
12 A. Yes, I am.
13 Q. Okay. With regard to the respondents here,
14 are they named in the Notice and in Exhibit B-3?
15 A. They are.
16 Q. And I take it you don't want to add or
17 subtract any?
18 A. No.
19 Q. Looking at the Affidavits of Mailing and the
20 information with regard to mailing, when were...when were
21 these folks mailed Notice of this hearing?
22 A. February the 16th of 2001.
23 Q. And when was there a publication?
24

1 A. February the 21st, 2001, in the Bluefield
2 Daily Telegraph.
3 Q. And what did you publish?
4 A. The Notice of Hearing and location map.
5 Q. Okay. Now this unit is a Oakwood I
6 unit...no, it's an Oakwood---?
7 A. I and II.
8 Q. ---I and II?
9 A. Yes, it is.
10 Q. Okay. And so that would be an 80 acre unit?
11 A. Yes, it is.
12 Q. It's not a makeup?
13 A. No.
14 Q. Okay. And the unit would be...you would be
15 seeking to produce from the Tiller on down?
16 A. Yes, it is.
17 MARK SWARTZ: I don't have mine---.
18 BENNY WAMPLER: I don't have mine either.
19 MARK SWARTZ: Oh, I've got one.
20 LESLIE ARRINGTON: Yeah.
21 MARK SWARTZ: Okay.
22 MARK SWARTZ: It was taken out of order.
23 BENNY WAMPLER: I've got the map. I was talking
24

1 about the AFE.

2 MARK SWARTZ: Okay.

3 LESLIE ARRINGTON: Okay. It's a little different.

4 Q. Okay. Why don't we---?

5 A. It's a little different this time.

6 BENNY WAMPLER: Okay.

7 Q. W-19 was pooled before, was it not?

8 A. It was. It was pooled back in the Oxy days

9 when Oxy was here.

10 Q. You're talking '92 and '93?

11 A. Yes, sir.

12 Q. And have you included in this application

13 the documentation that Oxy submitted with regard to cost and

14 election options because you don't want that to change?

15 A. That's correct.

16 Q. Okay. And what have you included?

17 A. I included their actual cost estimate for

18 the wells...I mean...well, it's not a cost estimate but their

19 cost for the unit within this application. And the reason I

20 done that was I didn't feel like it would be fair to come up

21 with a cost that we see in it versus what other...the

22 previous application that was done. So, we wanted to be, you

23 know, I guess, fair about it.

24

--

1 Q. So basically, the election options or
2 participation options would be at the same dollar, that's why
3 you done this?

4 A. That's correct.

5 Q. For people who previously had an
6 opportunity?

7 A. That's correct.

8 Q. Okay. And these are the numbers...the
9 allocated numbers that were used originally?

10 A. It is.

11 Q. And there's a mine map attached, right?

12 A. Yes.

13 Q. And those percentages are used in the
14 Exhibit G, page two, that Oxy originally submitted when this
15 unit was originally pooled?

16 A. It was.

17 Q. Okay, why are we...why have we had to repool
18 this?

19 A. Well, the reason I'm here actually repooling
20 this, back in those days, one of the tracts, and you'll
21 notice that it's shown as Gaston Cook Heirs on the exhibits
22 now, was originally shown as being own...the oil and gas
23 interest being owned by Consolidation Coal Company; and we
24

1 have since determined that Consolidation Coal Company did not
2 own that tract, the oil and gas interest. They do own the
3 surface.

4 Q. So, basically you're back because the...if
5 we look at Exhibit B-3, which tract number are we talking
6 about?

7 A. Tract #3.

8 Q. Tract #3, okay. So, the difference between
9 the original pooling in terms of the respondents and so forth
10 is with regard to who you are identifying as the owners or
11 claimants of Tract 3?

12 A. That's correct.

13 Q. And originally, it was thought that Consol
14 owned it, the mineral interest, and it has subsequently been
15 determined that the Cooks have and so that's...that's the
16 reason for the change?

17 A. That's correct.

18 Q. And getting back to the numbers, is it true
19 that the reason you have recycled the original Oxy numbers
20 was to give the Cook Heirs an opportunity to participate at
21 the same dollar that the other folks have?

22 A. That's correct, it is.

23 Q. And the participation here should be offered
24

1 in the order only to the Gaston Cook Heirs since the other
2 folks have had their opportunity?

3 A. That's correct.

4 Q. There's also, I notice in the original
5 application, an Exhibit B-2?

6 A. That's correct.

7 Q. And explain to the Board what's going on
8 here?

9 A. That's an interest that we've had leased
10 along and we're dismissing that interest.

11 Q. Okay. So, it's a leased interest that was
12 pooled that needs to be---?

13 A. Yes.

14 Q. It's a housekeeping issue?

15 A. Yes, it is.

16 Q. So your request then would be that who be
17 dismissed?

18 A. Yes. It's Carolyn Sparky Barnett and Pamela
19 and Tommy Jones.

20 Q. Because they've been leased?

21 A. Yes.

22 BENNY WAMPLER: Were all the parties renoticed?

23 LESLIE ARRINGTON: Yes, sir, they were.

24

--

1 Q. And then we've got an Exhibit E, correct?

2 A. Yes.

3 Q. So, escrow is required?

4 A. Yes, it is.

5 Q. Because of conflicting claims?

6 A. Yes.

7 Q. Any other reasons?

8 A. No, I don't believe. I don't think there's

9 any addresses on those.

10 Q. What is this conflicting owner unknown

11 interest?

12 A. Yes, sir. That...that interest is an ex-

13 wife and we're just not sure whether in that decree whether

14 she had an interest or not. If you'll notice, all the other

15 interest...there's a 100% of the interest shown in the other

16 ten owners there and we don't whether she had an interest or

17 not.

18 Q. So, with regard to the oil and gas fee

19 ownership, the Gaston Cook Heirs---?

20 A. Yes.

21 Q. ---the last person you list---

22 A. Yes.

23 Q. ---is a Hazel C. Hart, who you believe may

24

1 have an interest? So, you've named her---?

2 A. That's correct.

3 Q. ---and to the extent that it turns out she
4 has an interest, it would be taken from some or all of the
5 folks above?

6 A. Correct. It would be.

7 Q. And VDOT again, right?

8 A. Correct. Originally pooled in the
9 application the first time.

10 Q. Okay. And the last thing is you have taken
11 care of the costs...let me look at my...and you have...for
12 purposes of people looking at this and appreciating their
13 interest, that have an overall interest in the unit that's
14 assigned to them on Exhibit B-3,---?

15 A. Uh-huh.

16 Q. ---I'm looking at the Cook Heirs, and what
17 they would do is take that overall interest in unit times the
18 allocated cost to calculate percentage participation interest
19 or a carried interest, right?

20 A. They would.

21 Q. And then with regard to royalty, however,
22 there are separate interests for each panel that is in play
23 here from an allocation standpoint and those are reported in
24

1 the last two columns on Exhibit B-3?

2 A. Yes, it is.

3 Q. So that would be the royalty interest
4 columns?

5 A. Uh-huh.

6 Q. Obviously, you have leased or pooled the
7 majority of this tract or this unit, previously pooled or
8 leased?

9 A. That's correct.

10 Q. And with regard to any continuing provisions
11 with regard to deemed to have leased status, what terms would
12 you recommend to the Board?

13 A. A \$1 per acre per year for a coalbed methane
14 lease and a five year paid up term with a 1/8 royalty.

15 Q. And would you recommend to the Board that
16 they continue this unit and include these additional people
17 that you've identified because it is a reasonable way to
18 develop the resource under the unit and make sure that
19 everybody is paid?

20 A. Yes, it is.

21 MARK SWARTZ: That's all I have.

22 BENNY WAMPLER: Any questions from members of the
23 Board?

24

1 KENNETH MITCHELL: Only one question, Mr. Chairman.

2 BENNY WAMPLER: Yes, Mr. Mitchell.

3 KENNETH MITCHELL: I did notice on this item and the

4 previous item that VDOT was listed on this one and the one

5 before. Is it because of an existing road? It is because of

6 a right-of-way? How did VDOT get in the middle of a---?

7 LESLIE ARRINGTON: It's just according to how they

8 acquired their right-of-ways or easements. Sometimes they

9 did acquire them in fee or surface oil and gas, you know, and

10 then sometimes it's just actually a right-of-way.

11 KENNETH MITCHELL: That makes me feel good. When I

12 go back to Stafford, I can ask them for more road money

13 because of their oil interest.

14 (Laugh.)

15 SANDRA RIGGS: It's in escrow.

16 (Laugh.)

17 MARK SWARTZ: And you can usually tell them when you

18 see---.

19 DENNIS GARBIS: Don't count on it.

20 MARK SWARTZ: Yeah. When you see---.

21 CLYDE KING: Don't stand until they hit you in the

22 back.

23 MARK SWARTZ: When you see a plat that's pretty busy

24

--

1 like this with the roads and stuff, I mean, there's...

2 there's...a lot of 460, for example, which is in a lot of

3 these units, they just happen to acquire mineral fee

4 interest. So, if you see a lot of roads and highways, you

5 know, it's not unusual to see VDOT.

6 KENNETH MITCHELL: Okay.

7 MAX LEWIS: I don't believe the people knew at the
8 time what they were doing when they deeded that right-of-way.

9 LESLIE ARRINGTON: That's correct.

10 MAX LEWIS: That's what happened.

11 MARK SWARTZ: I think that the Commonwealth took
12 advantage of their citizens.

13 MAX LEWIS: I do, too. I know they did.

14 MARK SWARTZ: Absolutely. Although the Commonwealth
15 may not have known what they were doing either, you know.

16 MAX LEWIS: I don't know.

17 DENNIS GARBIS: That's probably more likely.

18 MAX LEWIS: I doubt that. They just didn't say
19 anything about it.

20 MARK SWARTZ: But there are a lot of roads that have
21 mineral issues...I mean, it's an issue that comes up with
22 regard to railroads as well that we've seen before.

23 SANDRA RIGGS: The Exhibit B-4 which adds parties,

24

--

1 those are the Cook Heirs?

2 LESLIE ARRINGTON: Yes, ma'am.

3 MARK SWARTZ: Right.

4 SANDRA RIGGS: In Tract 2, the one Connie Hess
5 Street, why did we pick her up?

6 LESLIE ARRINGTON: I'll have to go back and look.
7 (Leslie Arrington reviews his file. Board confers
8 among themselves.)

9 LESLIE ARRINGTON: We originally had that listed as
10 Virgil Hess, I believe.

11 SANDRA RIGGS: Okay. So I understand this, on Tract
12 3, originally you had Consol as the gas and oil owner?

13 LESLIE ARRINGTON: Consolidation Coal Company was
14 shown, yes.

15 SANDRA RIGGS: And you dropped them out and you put
16 in the Gaston Cook Heirs?

17 LESLIE ARRINGTON: Yes, ma'am.

18 MARK SWARTZ: Right.

19 SANDRA RIGGS: Okay. With re...on Exhibit B-4, with
20 respect to the coal ownership, did that change as well?

21 LESLIE ARRINGTON: I don't think so. No. No, the
22 coal ownership stayed the same.

23 SANDRA RIGGS: In T. R. Mullins, et al? We're
24

1 adding in...on B-4, we're adding in coal owners as well and
2 that's what's...that's what's confusing, I think.

3 MARK SWARTZ: Oh, I see.

4 BENNY WAMPLER: To me anyway. I just want to make
5 that you---.

6 SANDRA RIGGS: We don't have the prior pooling order
7 so we can't tell.

8 (Mark Swartz and Leslie Arrington confer among
9 themselves. The Board confers among themselves.)

10 MARK SWARTZ: Well, I guess the answer to your
11 question, and we may need to leave this as an open issue, my
12 guess is that they were previously pooled and they're
13 included on B-4 by mistake just to...but it's intended to
14 show that they were adverse to Cook. It turns out they were
15 pre...I will write to you, guys.

16 BENNY WAMPLER: Okay.

17 MARK SWARTZ: If they were previously pooled by a
18 prior order, because we haven't noticed them---.

19 BENNY WAMPLER: I suspect---.

20 MARK SWARTZ: ---so my assumption is that that's
21 the deal.

22 BENNY WAMPLER: It gets a little bigger.

23 MARK SWARTZ: Now, if it is...if it...you know, if
24

1 that's wrong, then I'll let you know and we'll put it on next
2 month's docket and we'll get it straightened out.

3 BENNY WAMPLER: Yeah, you need to notice if they're
4 not. But...okay. Is everybody clear on what we're---?

5 MARK SWARTZ: Now, Connie Hess Street, though, have
6 you got...have you got that organized as to why she's there?
7 I mean, we did notice here.

8 SANDRA RIGGS: Uh-huh.

9 MARK SWARTZ: Okay, all right.

10 SANDRA RIGGS: So, she gets an election?

11 MARK SWARTZ: Right. Yes, she does.

12 (Board members confer among themselves.)

13 SANDRA RIGGS: The percentages appear to have
14 changed, but that could be because you've identified some
15 more heirs and it's split. I don't know.

16 (Mark Swartz and Leslie Arrington confer among
17 themselves.)

18 BENNY WAMPLER: We'll just...we'll just order you
19 to---.

20 MARK SWARTZ: Right.

21 BENNY WAMPLER: ---as part of our decision here
22 today that you...you will review that and write us and notify
23 us that you will renotece the people if it has changed---.
24
~

1 MARK SWARTZ: If we need to or explain to you why
2 it's not necessary.

3 BENNY WAMPLER: Or explain it, right. Do you have
4 anything further?

5 MARK SWARTZ: No.

6 BENNY WAMPLER: Any questions from members of the
7 Board?

8 (No audible response.)

9 BENNY WAMPLER: Is there a motion for approval?

10 MASON BRENT: So moved.

11 DENNIS GARBIS: I second it.

12 BENNY WAMPLER: Second. Any further discussion?

13 (No audible response.)

14 BENNY WAMPLER: All in favor, signify by saying yes.

15 (All members signify yes.)

16 BENNY WAMPLER: Opposed, say no.

17 (No audible response.)

18 BENNY WAMPLER: Thank you. That concludes today's
19 agenda. Thank you very much.

20 MARK SWARTZ: Thank you all.

21

22

23 STATE OF VIRGINIA,

24

--

1 COUNTY OF BUCHANAN, to-wit:

2 I, Sonya Michelle Brown, Court Reporter and Notary
3 Public for the State of Virginia, do hereby certify that the
4 foregoing hearing was recorded by me on a tape recording
5 machine and later transcribed by me personally.

6 Given under my hand and seal on this the 11th day
7 of April, 2001.

8

9

NOTARY PUBLIC

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11 My commission expires: August 31, 2001.

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